

Sweden:

The limited impact of class actions, the extensive use of the ARN and ADR system

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Sweden

Class action

Consumer ADR

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Swedish class action

- The Class Action Act (SFS 2002:599) entered into force on 1 January 2003
- Types of class action:
 - a) private
 - b) organisational
 - c) public
- The individual group members are not considered parties and do not participate actively, but the whole group is nevertheless legally bound by the judgment

Swedish class action

- Strong criticism against class action before the introduction of the new act
 - No practical need in Sweden
 - "Legal blackmail" risks
 - Time-consuming and demanding on public courts
 - May deter foreign investments and incite "forum shopping"
 - Individual circumstances need to be taken into account in each case



Swedish class action

- Class actions in Sweden so far
 - The preparatory works estimated 20 collective redress cases per year
 - Today, ten years later, only 12-15 class actions have reached courts
 - Most have been dismissed or settled/withdrawn, and some more claims have likely been settled/withdrawn before even getting to the courts

Swedish class action

- Very few cases have led to material judgements
 - Class action against the Swedish University of agricultural sciences regarding gender discrimination, by 44 women
 - Class action against the Swedish State regarding customs seizure of privately imported alcoholic beverages, by 97 persons
- Only few cases are currently active
 - Class action against an electricity supplier initiated in 2004, by the Consumer Ombudsman
 - Class action against the aviation authority initiated in 2006, by residents near Stockholm's main airport
 - The "Acta group proceedings" are no class actions, but consist of hundreds of individual cases handled jointly
- Most of the class actions in Sweden so far have targeted the Swedish State as defendant and have not been consumer oriented, which was probably not expected by the legislator

Swedish class action

- Some examples of other contemplated class actions discussed in the media
 - Graffiti vandals requesting class action against a listed security company for breaches of the Swedish Personal Data Act
 - Football hooligans considering class action against Danish(!) police for bad treatment
 - Prison inmates considering class action against the Swedish State for bad treatment
- Perhaps not the type of class actions envisioned by the legislator...?



Sweden

Class action

Consumer ADR

Swedish consumer ADR

- A substantial number of extrajudicial ADR instances supplement the Swedish courts in consumer disputes:
 - The Swedish National Board for Consumer Complaints (the “ARN”) (Sw. *Allmänna reklamationsnämnden*) is the most important ADR entity
 - In addition, there are more than 52 private self-regulatory ombudsmen and boards
 - Several thousands of cases are solved each year by these ADR instances!

Conclusions



- The introduction of class action has not been a success in Sweden
- The existing ARN and ADR system offers well-functioning and accessible alternatives for consumer disputes

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