

# **Right of action in collective proceedings**

## **Abstract**

This thesis is focused on the analysis of the persons with right of action and interested class members in collective proceedings and the draft law on collective proceedings going through the national legislative process, which is the transposition of Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC. The aim of the thesis is to assess the current readiness of the Czech legal environment to adopt the new institute coming from common law. The thesis is based on analysis, abstraction, classification, deduction and comparative analysis of several European countries. Appropriate *de lege ferenda* solutions are proposed.

The first chapter of the thesis defines the institutes and notions of adversarial proceedings related to right of action and standing in the Czech legal environment. The second chapter is focused on the definition of collective proceedings. The chapter also includes an evaluation of the appropriate opt-in and opt-out model for national legal systems, concluding that the opt-in model is more appropriate for the Czech environment. The third chapter of the thesis presents concept of the right of action and the solution to its lack in civil litigation in general. The fourth chapter is devoted to breaking the substantive standing of class proceedings, including an analysis of the draft law on class proceedings, which describes the rights and obligations of the authorised persons and the interested class members.

The status of authorised persons and their competences were described. The procedural rights of the interested members of the group as *sui generis* parties were also analysed. I conclude that the Czech Republic is ready to accept class proceedings under the conditions in the draft law. In order to ensure the quality of representation, I propose at least to establish attorney-client privilege, ideally taking inspiration from the German legislation on representation before the Federal Court or insolvency law in the Czech Republic, and to introduce a special list of attorneys. Chapter five is devoted to a comparative analysis of selected European countries, namely Portugal, the Federal Republic of Germany, the Netherlands, Slovakia and the United Kingdom.

**Key words:** collective proceedings, right of action, standing