

Developments of Labor Collective Action and New Changes

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Abstract

This article discussed the labor collective action system in the Labor Incident Law implemented on January 1, 2020. A new labor collective lawsuit system will be introduced to handle disputes between multiple workers and their employer more effectively. Regarding the action for injunction, which is the litigation in labor union's own name on labor's behalf according to the Law, the plaintiff's standing of labor union is reviewed by the court, but not by labor administrative authorities anymore. The withdrawal, abandonment or settlement of the lawsuit shall also be subject to the approval of the court. This legislation is welcomed and can be used as a reference for future amendments to Article 44-3 of the Civil Procedure Law.

Regarding the overtime pay, pension or damages, the labor collective action for payment can be filed by a labor union only authorized by its members, which protects the interests of workers better than the German law. In order to avoid separately litigating and contradictable judgments, the plaintiff can file additional claims before the end of oral arguments in the first instance trial, and request a declaratory judgment confirming the existence of the common basis prerequisites concerning claim and legal relationship between the appointing persons and the defendant. Concerning the additional claim, the court should give priority to conducting the argument and adjudication; before the adjudication concerning the additional claim is finalized, the original litigation proceedings may be stayed by the court. Moreover, combined with the public announcement of the action, more labors could opt into the group action. Based on the complexity of collective action, the court shall assist both parties to formulate issues and elucidate important legal

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or factual issues so that the plaintiff can submit proper motions as early as possible. If the labor union and defendant want to settle, the appointing parties should be notified of the content of the settlement agreement, and have the opportunity to withdraw their authorization of litigating to protect their procedural and material rights.

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