

Code of Civil Procedure

Book 3 Justice procedures of various nature

Title 14 Concerning the procedure in cases involving declarations that agreements for the collective settlement of damage claims are binding

Article 1013 Content of the petition

- **1.** The petition (application) whereby the request referred to in Article 907(1) of Book 7 of the Civil Code is filed shall state:

- a. the name and place of residence of the petitioners;
- b. a description of the event or the events to which the agreement relates;
- c. the names and places of residence of the persons known to the petitioners on whose behalf the agreement was concluded, whereby it shall be sufficient to use their last known addresses;
- d. a brief description of the agreement;
- e. a clear description of the request and the grounds on which it is based;

- **2.** The agreement shall be attached as an appendix to the request.

- **3.** The Court of Appeal in Amsterdam shall have exclusive competence to take cognisance in first instance of a request as referred to in this article.

- **4.** Notwithstanding the terms of Article 282(2), no copy of a statement of defence or the documents submitted is required to be sent to the persons on whose behalf the agreement was concluded.

- **5.** The notice to appear shall be sent to the persons referred to in the first paragraph under c by ordinary post, unless the court determines otherwise. Notice shall also be given by an announcement in one or more newspapers to be designated by the court, by which legal entities as referred to in Article 1014 shall also be given notice to appear. In addition to the place, the date and the time of the hearing, each notice must also include a brief description of the agreement and the consequences of the granting of the request, presented in a manner to be prescribed by the court. The notice shall also state that the documents referred to in Article 290(1) are available for inspection at the court registry and that copies are available, and shall refer to the right to file a defence. Unless the court decides otherwise, the petitioners are responsible for giving notice pursuant to this paragraph. The court may order that the information referred to in this paragraph must also be announced in some other way.

- **6.** If it determines the date and the time of the hearing, the court may also decide that, notwithstanding the terms of Article 282(1), defences must be filed by such time prior to the hearing as the court may decide.

Article 1014 Written defence

A foundation or association with full legal competence which, pursuant to its articles of association, represents the interests of the persons on whose behalf the agreement was concluded may file a defence.

Article 1015 Suspension of pending legal proceedings for compensation

- **1.** Pending proceedings concerning claims in respect of which the agreement provides for compensation

shall, on request by a party to the agreement from whom compensation is being claimed in the proceedings, be suspended during the hearing of the request in accordance with Article 225(2), even if the date on which the judgment will be issued has already been determined.

- **2.** The suspended proceedings shall be resumed in accordance with Article 227(1):

a. if compensation is being claimed in the proceedings that is not provided for in the agreement;

b. if the person entitled to compensation has submitted the statement referred to in Article 7:908, paragraph 2, of the Civil Code;

c. if it has been established that the request will not be granted;

d. if the agreement is terminated pursuant to Article 7:908, paragraph 4, of the Civil Code;

e. if, having regard to the interests of a person entitled to compensation and taking all the circumstances into account, the hearing of the request has taken unacceptably long and is likely to continue for an unacceptable length of time;

f. if either of the parties claims an order for the payment of the costs of the proceedings after the decision to declare the agreement binding has become irrevocable.

- **3.** Article 7:907, paragraph 5, of the Civil Code does not apply to claims in proceedings that are resumed pursuant to paragraph 2.

- **4.** Except in those cases referred to in paragraph 2, after suspension of pending proceedings the case shall be removed from the cause-list at the request of either of the parties if the decision to declare the agreement binding has become irrevocable.

- **5.** Article 225(2), second sentence and (3), and Article 222(2) and (3) shall apply.

Article 1016 Experts

- **1.** The court may order that one or more experts shall make a report on points that are relevant for the request.

- **2.** Subject to the application of Article 289, the court may decide that the costs arising from applying the provisions of this title shall be borne by one or more of the petitioners.

Article 1017 Formal requirements

- **1.** The court registrar shall send a copy of the decision to the petitioners as soon as possible by ordinary post.

- **2.** The decision and the agreement declared binding by that decision shall be filed with the court registry where they will be available for inspection and where copies will be available for persons entitled to compensation.

- **3.** A copy of the decision to declare the agreement binding shall be sent by ordinary post, as soon as possible after it has become irrevocable, to the persons known to be entitled to compensation and to the legal entities referred to in Article 1014 that appeared at the proceedings, Furthermore, as soon as possible after this decision has become irrevocable, a notice to that effect shall also be published in one or more newspapers to be designated by the court. Each notice shall include, in a manner to be prescribed by the court, a brief description of the agreement, in particular the method by which compensation can be obtained and, if the agreement so provides, the period within which the claim for compensation must be made, as well as the consequences of the declaration that the agreement is binding and the period within which and the procedure by which persons entitled to compensation can free themselves from the consequences of the declaration that the agreement is binding. The notice shall also state that the decision and the agreement thereby declared binding are available for inspection at the court registry, Unless the court decides otherwise, the petitioners are responsible for sending the information and publishing the notice referred to in this paragraph. The court may order that the information referred to in this paragraph must also be intimated by some other method.

- **4.** As soon as possible after the request to declare an agreement binding has been denied irrevocably,

the petitioners shall ensure that the persons on whose behalf the agreement was concluded are notified to this effect in a manner to be prescribed by the court.

Article 1018 Appeal in cassation; revocation

- **1.** Appeal in cassation is only open to the petitioners and may only be brought by the petitioners jointly.

- **2.** [A request for] revocation [of the decision] is only open to the foundation or association referred to in Article 7:907, paragraph 1, of the Civil Code, and to the other petitioners jointly. If the foundation or association referred to in the first sentence is dissolved, [a request for] revocation is open to a foundation or association as referred to in Article 1014. Revocation of the decision upon the request of a foundation or association as referred to in the first or second sentences shall have no consequences for a person entitled to compensation who objects to it.
