

**Order
of the Kúria**

Case number: Pkk.V.24.731/2016/2.

Members of the Chamber:

Dr. Géza Bartal, President of the Chamber,
Dr. Katalin Simonné Gombos, Judge Rapporteur,
Dr. Attila Farkas, Judge,

Applicant:

...

Representative of the applicant:

...

Defendant:

...

Representative of the defendant:

...

Subject-matter of the litigation:

Pecuniary claim and expenses

Decision to initiate the designation of the court:

Dr. Margit Asbóth, Public Notary, decision Nr. 11014/Ü/1546/2013/5.

Operative part of the order

The Kúria designates the Budai Központi Kerületi Bíróság (Central District Court of Buda, Budapest) for carrying out the proceedings.

No appeal shall lie against this order.

S t a t e m e n t o f r e a s o n s

- [1] Because of a delay to a flight, a passenger assigned their claims by contract of assignment to an assignee company specialised in the recovery of such claims, registered in the United Kingdom. The assignee then applied to dr. Asbóth Margit, a Hungarian public notary, for a European order for payment against ..., a company established in Germany. The assignee's claim brought against the debtor for payment of EUR 600, plus interest and costs, was based on the ground that, following the assignment, it had a right to compensation due to a delay of more than three hours on flight ...7626.
- [2] The debtor exercised its right to oppose that order for payment, stating that it did not operate the flight referred in the application.
- [3] The assignee's representative had, at the request of the public notary, declared that he was unable to designate the competent court once the order for payment procedure had become ordinary civil proceedings, therefore the notary applied to the Kúria (Supreme Court) to designate the competent court.
- [4] The Kúria decided in its decision No. Pkk.V.24.972/2013/12., modified by decision No. Pkk.V.24.972/2013/2., to stay the proceedings for designating the competent court and to make a request for a preliminary ruling to the Court of Justice of the European Union.

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- [5] Following the judgment of the Court of Justice of the European Union in case C-94/14, the Kúria ordered the resumption of the suspended proceedings.
- [6] The Court of Justice of the European Union answered the questions referred by the referring court, that it is not required to review the European order for payment by analogy with Article 20 of Regulation No 1896/2006, thus following the defendant's opposition, the question of international jurisdiction shall not be raised in the proceedings before the notary. Nonetheless, Regulation (EC) No 44/2001 and (EC) No 1896/2006 require national law to be interpreted in such a way that it permits it to designate a court having territorial or substantive jurisdiction to hear the case.
- [7] The Kúria, taking the above interpretation by the Court into consideration, in order to guarantee the rights of the parties to effective access to a court and the rights of the defence, designated a court with territorial jurisdiction to hear contentious proceedings following the defendant's opposition to the European order for payment procedure, on the basis of section 45 (1) and (2) c) of the Code of Civil Procedure.
- [8] Since the ongoing proceedings concerning the designation of the court do not allow the question of examining international jurisdiction, keeping in mind the further answers given by the Court of Justice of the European Union, the question whether the Hungarian courts have international jurisdiction even in the absence of connecting factors is therefore at issue in the main (contentious) proceedings.

Budapest, 21th April 2016

Dr. Géza Bartal (signed), President of the Chamber, Dr. Katalin Simonné Gombos (signed),
Judge Rapporteur, Dr. Attila Farkas (signed), Judge

In witness whereof:

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officer of the court