

Communication concerning the decision of the Curia of Hungary  
in civil case n° Pfv.III.21.161/2013

The house, garage and movables of the plaintiff were overrun and destroyed by red sludge as a result of the breakdown of the storage tank possessed and operated by the defendant.

The plaintiff demanded damages for his pecuniary as well as non-pecuniary losses, and asked the court to declare that certain of his personal rights were violated. He based his claim for damages primarily on the liability of the owner of the storage tank for building damage and secondarily, with respect to an activity threatening human surroundings, on the rules on liability for damage originating in the operation of a dangerous plant.

The defendant argued that it was not responsible for building damage caused by the burst storage tank as it was neither planned nor constructed by him, he maintained it properly, and the storing of red sludge does not constitute an activity carrying increased risks. The defendant also pointed out that extreme weather and seismic moves also contributed to the damage.

In the final partial interlocutory judgement the second instance court quashed the provisions of the first-instance court decision which established the violation of the plaintiff's personal rights and the defendant's liability for the non-pecuniary damages and ordered the first-instance court to hold a new hearing and make a new decision in these questions. In other issues it upheld the first-instance partial judgement while clarifying that the plaintiff was entitled to claim damages from the defendant for the losses caused by the breakdown of the storage tank. According to the reasoning of the final partial interlocutory judgement the damage was caused by a change in the structure of the soil that originated in the chemical process induced by the meeting of the slurry with the subsoil. Based on the rules on responsibility for dangerous plants the defendant was accountable for such damage, the examination of other causes and of the factual elements of responsibility for building damage was not necessary.

The Curia, proceeding upon the petition of the defendant for a review procedure, upheld the disputed provision of the final partial interlocutory judgement. In agreement with the first instance court it held that the breakdown of the storage tank was a complex event following from the disadvantageous concurrence of several causes. Out of these causes the wide-ranging examination carried out by judicial experts proved that the building had structural defects, there were defects in its maintenance, and the activity endangered the environment. The defendant could not excuse itself from the liability for building damage or from the liability for the losses caused by an activity endangering human surroundings, therefore the Curia upheld the final decision declaring the liability of the defendant for the compensation of pecuniary damage.

Budapest, the 28<sup>th</sup> of February 2014

Civil Department of the Curia of Hungary