

Communication concerning the decision of the Curia of Hungary in  
civil case number Gfv.VII.30.360/2018

In their claim, the plaintiffs as creditors of Malév Magyar Légiközlekedési Zrt. (Malév Hungarian Airlines Private Limited Company) in liquidation requested the court to establish the full and unlimited liability of the Hungarian State, the defendant to the present case, as member of the aforementioned company. They argued that the defendant had a dominant influence through its qualified majority voting rights over the company and conducted a business policy with lasting negative effects, which led to the debtor company's liquidation.

The first and second instance courts found in favour of the plaintiffs. The final judgement established regarding the overwhelming majority of the plaintiffs that the defendant had conducted a business policy with lasting negative effects in respect of the debtor company and that therefore the defendant could be held liable for the plaintiffs' creditor claims.

The Curia did not agree with the lower instance courts' viewpoint. Based on the rules on the liability of groupings of companies of the Act on Bankruptcy and Liquidation Proceedings, the courts' case-law related thereto, as well as the assessment of the pieces of evidence, the Curia concluded that the debtor company's loss-making activities and liquidation had not been caused by the defendant's dominant influence and the latter's failure to take adequate measures. After having acquired ownership interest in and control over the debtor company on a transitional basis, the defendant Hungarian State sought to improve the debtor company's management by way of the adoption of a number of measures (provision of funding, business planning), and the fact that the defendant's measures, business plans and strategic decisions proved to be partly or totally insufficient cannot be qualified as a business policy with lasting negative effects.

With regard to the above, the Curia quashed the final partial judgement of the Regional Appellate Court of Budapest, modified the parts of the first instance judgement that had found in favour of the overwhelming majority of the plaintiffs and rejected their claim.

Budapest, the 24<sup>th</sup> of November 2018

Civil Department of the Curia of Hungary