

Examination of the grounds for the rejection of the statement of claims

Since the entry into force of Act number CXXX of 2016 on the Code of Civil Procedure (hereinafter referred to as the new Code of Civil Procedure) on 1 January 2018, the Curia's management has been informed from various sources that the courts of first instance could not develop a uniform practice as to the application of the grounds for the rejection of the statement of claims. In functioning rule-of-law systems, the requirement of legal certainty presupposes the uniform application of the procedural codes by the courts, irrespective of their territorial competence.

The respect for the above requirement is essential, because if there is even a very low likelihood of unsubstantiated court decisions, it may violate the citizens' constitutional right of access to a court, may jeopardize the societal acceptance of the new civil procedural code and may have an adverse effect on public confidence in the judiciary.

The analysis of the courts' jurisprudence may provide a real picture of how the courts deal with such cases throughout the country. The future findings of the jurisprudence-analysing working group may make it possible to assess whether the allegation, widely reported in the press, according to which the rejection of the statement of claims or the termination of proceedings for a reason on grounds of which the statement of claims should have been rejected is disproportionately far more frequently applied by the courts on the basis of the new Code of Civil Procedure than on the basis of the former 1952 procedural code can be held true or not. If this allegation is true, then it has to be clarified whether the courts' more restrictive practice is based on the more rigorous substantive and formal requirements of the statement of claims or on the erroneous application (unnecessarily narrow interpretation) of the relevant legislation.

The jurisprudence-analysing working group is entrusted with the tasks of identifying the correct practices and formulating reasonable proposals for the judiciary and the legislature in order to enable the persons seeking justice to have access to the courts in a predictable manner.

Given that the Curia's judges have no first-hand adjudicating experience in the rejection of the statement of claims and the termination of proceedings for a reason on grounds of which the statement of claims should have been rejected, the working group's judge members will examine the relevant case files by way of requesting their transferral to them from the lower instance courts.

The working group's analysis may include not only an assessment of the individual court decisions but that of the entire course of the judicial proceedings as well. Hence, the working group may examine the substantive and formal elements of the rejected statements of claims, the contents of court orders calling for the remedy of deficiencies as well as both the operative and reasoning part of court orders terminating their proceedings for a reason on grounds of which the statement of claims should have been rejected.

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