

Conclusions of the summary report related to the courts' jurisprudence  
on the quantitative issues of employers' liability for employees' health damage

Under no. 2018.EI.II.J.Gy.M.1, the Curia's Administrative and Labour Department analysed the courts' jurisprudence on the quantitative issues of employers' liability for employees' health damage. The jurisprudence-analysing working group, led by Ms. Blanka Tallián, Judge, Head of Panel at the Curia's Administrative and Labour Department, examined the relevant judgements, decisions and rulings of theoretical importance of the lower instance courts, the Supreme Court and the Curia.

Based on the decision of the President of the Curia, the working group was composed of twelve Curia justices, five lower instance judges, three university lecturers, two attorneys-at-law as well as a representative of the National Office for the Judiciary.

The working group sought to examine i. the development of the courts' case-law as a result of the entry into force of Act no. I of 2012 on the Labour Code (hereinafter referred to as the Labour Code), ii. whether labour departmental opinions no. MK. 32, MK. 93, MK. 111, MK. 112 and MK. 143 could continue to be applicable and iii. how the relevant legal provisions of Act no. V of 2013 on the Civil Code (hereinafter referred to as the Civil Code), applicable with regard to section 177 of the Labour Code, and the relevant civil departmental opinions could comply with the labour legislation.

On the basis of the assessment of the lower instance courts' judgements transmitted to the working group, the latter concluded that the aforementioned labour departmental opinions (except for the last paragraph of the reasoning part of labour departmental opinion no. MK. 112) could continue to be applicable in the future.

The jurisprudence-analysis revealed which civil departmental opinions should be taken into account in the adjudication of cases touching upon employers' liability for employees' health damage, these opinions are referred to in an annex to the summary report.

The summary report found, *inter alia*, the followings:

- The calculation of the amount of compensation for loss of income from employment payable to the employee should be based on the latter's average monthly income.
- The loss of income should be calculated on the basis of the currency of the employee's income. If the employee, totally or partially, received payment in a foreign currency, then his loss of income should be determined, accordingly, in such currency.
- Income gained by the employee by extraordinary work performance should also be compensated by the employer.
- In addition to social security funded compensation or services, the injured party may be entitled to supplementary payments which, however, cannot exceed an appropriately moderate amount.
- Based on his liability for his employee's health damage, the employer may be liable to pay damages to the employee's relative as well.
- In the event of the employee's death in connection with the incidence of health damage, the dependent relative of such employee may demand compensation in substitution for the lost support in the amount required to ensure his previous living standards.
- Annuity claims may be enforced within the general term of limitation.
- The term of limitation for claims for damages shall commence at the time of the occurrence of the employee's health damage.

Based on the findings of the summary report, the Curia's Administrative and Labour Department drafted and adopted administrative and labour departmental opinion no. 3/2018 KMK of 17 September 2018.