

Conclusions of the summary report on the Curia's not-on-the-merits decisions

On a proposal from the Curia's heads of departments, the President of the Curia considered that an examination of the Curia's not-on-the-merits decisions rendered in each and every field of law would be necessary within the framework of the analysis of the Curia's adjudicating activities. Therefore, he set up a jurisprudence-analysing working group to examine the Curia's not-on-the-merits decisions.

The applicable working methods were determined by the subject of the working group's examination, since the working group had to adapt its methodology to the specificities of the predetermined topic. This meant in the present case that the examination concerned only the Curia's not-on-the-merits decisions in cases where, due to absolute grounds for refusal defined by law, the Curia was not allowed to deal with the submitted petitions for judicial review and to review the merits of the impugned judgements.

The jurisprudence-analysing working group commenced its activity during the course of the ongoing codification of the new Code of Civil Procedure. With regard to the aforementioned codification, the working group considered it a matter of priority to reveal and present the Curia's case-law in respect of those provisions of Act no. III of 1952 on the Code of Civil Procedure that had been so far applicable to not-on-the-merits decisions with the aim of providing an appropriate basis for a future comparison between the provisions of the currently applicable Code of Civil Procedure and the rules of the new code. The working group also intended to ensure the uniform interpretation and application of the provisions of the Code of Civil Procedure, and it took special consideration of the fact that, although having only an indirect effect on the proceedings of the first and second instance courts, the Curia's not-on-the-merits decisions are of essential importance to petitioners for judicial review and their legal representatives. The working group therefore saw a need to present, in a transparent manner, the legal background and requirements upon which the admissibility of petitions for judicial review is examined.

The decisions concerned were collected and individually analysed and their relevant elements were recorded and examined in each field of law with the assistance of the Curia's trainee judges. As a result of the above method, a "Sorted cases" chart and a "Distribution as to the substance of cases" chart were prepared. These charts, attached to the summary report as annexes, gave an overview of the decisions that had found the parties' petitions for judicial review inadmissible and of their reasoning and the regularity of their delivery.

Subsequently, the data collected and contained in the above charts were processed in two phases. Firstly, the members of the jurisprudence-analysing working group examined in their respective field of law the relevant decisions, their main characteristics and their typical problems. Secondly, the working group analysed the decisions that affected two or more fields of law, were of greater importance or raised widespread problems, and it carried out a comparative analysis of the decisions rendered in different fields of law, further examined the problematic issues and proposed solutions to address them. The results of the working group's examination were included in the core provisions of the summary report.

The working group concluded its summary report by summarising its most important findings and suggesting that, in order to harmonise and make predictable the Curia's jurisprudence in cases in which petitions for judicial review are declared inadmissible, some of the problematic issues be addressed by the Curia's competent collegiate bodies.