



PRESIDENT OF THE CURIA OF HUNGARY

Your Excellencies, Madam Ambassadors and Ambassadors,

Dear Ladies and Gentlemen,

The Curia is celebrating a special double anniversary. The Hungarian King Charles Habsburg III signed, in June 1723, the laws which, among others, ensured the succession of Queen Maria Theresa to the throne of Hungary and established, in the town of Pest, the Curia Regia as a high court of law. The Curia consisted two so-called tables, the Table of Seven (*Tabula Septemviralis*) and the Royal Table (*Tabula Regia Judiciaria*), with fixed powers, permanently operating and applying Hungarian statutory and customary law as of the year 1724. As a tribute to this historical milestone, the Curia's anniversary was celebrated last year with an academic commemorative conference.

During the more than three hundred years, institutions and structures have come and gone, but the Curia has remained, which represents stability and solidity. These three hundred years make the Curia one of the oldest, long-established supreme courts in Europe.

The highest judicial forums are not only the highest level bodies of the judiciary, judicial knowledge and experience, but also have the key task of ensuring the uniformity of the courts' case-law. This is based on a tradition that goes back many centuries, and a prerequisite for this task was, of course, to make the law more widely accessible. The first Hungarian book of law to appear in print dates back to 1488, and the first work to summarise Hungarian statutory and customary law, the famous *Tripartitum* of Judge Royal István Werbőczy, appeared in 1517. The royal assent at the beginning of the *Tripartitum* raised the question of the uniformity of the courts' jurisprudence. István Werbőczy's name has now been taken by the Curia's scientific research institute.

It was only after the comprehensive reform of the higher courts in 1723 that the practice of the higher courts could be collected.

From 1723 onwards, judgments of the Curia containing statements of principle were called *decisiones*, and if both tables repeatedly provided the same assessment on the

same point of law, it was called *decisio praejudicium*, a ruling statement of principle. However, Hungarian judicial customary law differed significantly from English common law. The Hungarian judge did not refer back to earlier precedents on a case-by-case basis, but to well-established trends in judicial practice.

The Curia's decisions became known, the parties adopted them as binding guidelines. In 1768, Maria Theresa ordered the publication of a collection of Curia decisions delivered as of the year 1723. Completed in 1769, the *Planum Tabulare* was later published in print, making it more widely available to judges and those seeking justice.

The 19th century was a period of modernization and civil progress. The legislator came to the point of setting up uniformity panels at the Curia in the fields of criminal, administrative and civil law.

Ensuring the uniformity of the courts' case-law is an essential requirement for legal certainty, which is a key part of the rule of law. A properly functioning legal system is expected to provide citizens with foreseeability and predictability of their rights and obligations. However, this is a task not only for the legislator, by drafting legal norms in a clear, unambiguous and precise manner, but also for the courts applying the law. Courts meet the requirement of legal certainty by ruling similarly on similar facts and interpreting the same piece of legislation on the basis of similar principles.

Dear Ladies and Gentlemen,

Ensuring the uniformity of the courts' jurisprudence has therefore been a top priority of the supreme judicial forum for centuries, and it still is today. The Fundamental Law of Hungary states with regard to the Curia that it "shall ensure the uniformity of the application of law by the courts, and shall make uniformity decisions which are binding on the courts". The possibility of divergent jurisprudence stems from the independence of the judiciary: judges are subject only to the law, and they adjudicate cases according to the law, on the basis of their best convictions.

However, all courts must seek to guarantee the uniformity of their jurisprudence and all courts, in particular the courts of appeal, contribute thereto. This harmonisation process happens automatically. The Curia, on the other hand, has a duty under the Fundamental Law to do its utmost to ensure that conflicting judgments do not arise. The Curia seeks to achieve this uniformity through the cassation process (as an extraordinary remedy procedure) and partly through other, explicitly case-law harmonising instruments (uniformity complaint procedure and uniformity procedure).

The other uniformity instruments available to the Curia are the uniformity procedure, in existence since 1998, and the uniformity complaint procedure, introduced in 2020, which has resulted in the establishment of a limited precedent system. On one hand, it is limited in the sense that only the interpretations provided by the Curia's decisions are binding, while the interpretations offered by the decisions of other courts are not. On the other hand, it is also limited because the lower courts may depart from the interpretation of the law contained in the published decisions of the Curia, but they are obliged to present the reasons for their dissenting interpretation. In the case of the adjudicating panels of the Curia, they must initiate a uniformity procedure if they seek to depart from a previously published decision of the Curia on a point of law.

This regulation was accepted by the Court of Justice of the European Union which recently decided in the case C-537/2022. that the obligation of lower court judges to give reasons if they deviate from the case law of the Curia is not contrary to the European law.

If in the cassation procedure the Curia has not remedied the infringement caused by a deviation a uniformity complaint may be lodged. The reason for the introduction of this mechanism was the Venice Commission's expectation and consistent practice according to which the uniformity of the courts' case-law should be ensured by means of a remedy petition, at the request of the parties to the dispute, which is open to them and in which the parties who bear the consequences of the judicial decision can express their views.

The form of initiating the uniformity procedure is the submission of a request for a preliminary ruling. A panel of the Curia may initiate a uniformity procedure by way of submitting a request for a preliminary ruling if it wishes to depart from a published decision of the Curia on a point of law. In its request, the requesting panel must state the questions and grounds on which it seeks a uniformity decision and must propose how the disputed legal issue should be decided.

As a consequence, at present, the Curia has a number of instruments at its disposal with which it can better fulfil its main duty under the Fundamental Law, namely to ensure the uniformity of the courts' application of the law than earlier. It is not by chance that the commemorative coin issued by the Hungarian National Bank on the occasion of the Curia's 300th anniversary indicates that the 300-year old Curia's main mission is to serve as the guardian of the uniformity of the case-law since 1723. This is the mission we are constantly seeking to accomplish.

Thank you for your kind attention.

Allow me now to ask the Secretary General of the Curia Judge Judit Gyarmathy to make her presentation on the Curia's case allocation system.