

Communication concerning the decision of the Curia of Hungary
in the civil case n° Gfv.VII.30.299/2012/12

The plaintiff requested the annulment of an award of an arbitration tribunal by pointing out several reasons [Article 55, paragraph (1), points c-e), and paragraph (2), point b) of the Act n° LXXI of 1994 on Arbitration]. The first instance court in its final decision established that the reasons pointed out in the claim cannot be verified and dismissed the claim.

The Curia upheld the decision of the first instance court.

The Curia established that the appointed arbitrator has to disclose only those relations in respect of the parties and their representatives that may raise doubts as to the arbitrator's independence and fairness. According to Article 19, paragraph (6) of the Rules of Procedure of the Court of Arbitration attached to the Hungarian Chamber of Commerce and Industry (hereinafter referred to as the Rules of Procedure), the same is guiding in the case of the expert. However, the violation of these rules in the case could not be established.

The statement of the arbitration tribunal, according to which referring, by a means of objection [Article 236, paragraph (3) of the Civil Code], to the invalidity of the contract on the part of the defendant qualifies as a counterclaim, is an issue within the discretion of the arbitration tribunal and cannot be reviewed by the ordinary court.

The ordinary courts can review an award of the arbitration tribunal validated by the signature of two arbitrators, therefore the dissenting opinion of an arbitrator has no significance in the proceeding of the ordinary court. The dissenting opinion of the arbitrator can be disclosed only upon the permission of the chair of arbitration tribunal, therefore the first instance court was right in dismissing the plaintiff's claim [Article 39, paragraph (2) and Article 40, paragraphs (2)-(3) of the Rules of Procedure].

Budapest, the 12th of December 2012

Press Office of the Curia of Hungary