

Communication concerning the decision of the Curia of Hungary
in civil case n° Pfv.III.22.569/2017

In his legal action, the plaintiff requested the court to oblige the defendant to pay an amount of 5 000 000,- HUF as non-pecuniary damages, an amount of 430 500,- HUF as income forgone and default interest thereon, as well as court costs. The plaintiff argued, *inter alia*, that the defendant healthcare provider had breached its obligation to provide appropriate information in respect of his surgical operation in 2013, as it had failed to give detailed and personalised information on the operation's risks and possible complications, consequently, it should be held liable for his health detriment originating from the operation's complications. The plaintiff was of the opinion that the information provided for him on a similar operation which he had undergone in 2004 could not dispense the defendant of its obligation to provide information, once again, on the operation in question.

The court of first instance partially found for the plaintiff and obliged the defendant, due to its failure to provide information, to pay him an amount of 500 000,- HUF as damages and interest thereon.

As a result of the parties' appeals, the court of second instance reversed the first instance judgement and rejected the plaintiff's claims.

Proceeding upon the plaintiff's petition for judicial review, the Curia of Hungary quashed the second instance decision and upheld the first instance judgement.

The Curia pointed out that the information provided for the plaintiff on a similar operation which he had undergone several years earlier could not dispense the defendant's therapist of his obligation to give, once again, comprehensive and personalised information on the plaintiff's 2013 operation and its possible complications in compliance with the relevant provisions of Act no. CLIV of 1997 on Health Care. As a result of the defendant's failure to do so and the fact that it could not prove that it had provided such information, it should be held liable for any and all damage – in particular for the plaintiff's health detriment caused by the complications – that would not have occurred without the operation in question.

Budapest, the 19th of February 2019

Civil Department of the Curia of Hungary