

Communication concerning the decision of the Curia of Hungary
in civil case n° Pfv.V.20.907/2016

The guardian of a person under guardianship has been unjustly receiving the latter's pension benefits for 16 years following the latter's death. The competent pension insurance institution had no knowledge of the earlier death of the person under guardianship until the death of the guardian.

Following the discovery of the unjust disbursement, the pension insurance institution requested the court to oblige the guardian's successors to pay back the amount of 5 468 411,- HUF as unjustly disbursed pension benefits on the basis of the rules on unjust enrichment and the civil law rules on succession.

The court of first instance accepted the plaintiff's claim. The court of second instance reversed the first instance judgement and rejected the plaintiff's claim. The court of second instance argued that since the pension insurance institution, the plaintiff to the present case, had brought a civil action against the guardian's successors, prime consideration had to be given to the question of whether there had been a civil law relationship between the parties to the proceedings. The court was of the legal position that pursuant to section 93, subsection (2) of Act no. LXXXI of 1997 on Social Security Pension Benefits, the pension insurance institution would have been entitled to recover its claim by way of delivering an administrative decision imposing the obligation to pay the unjustly disbursed benefits back, such decision, to be rendered in accordance with the rules of administrative procedure, would have created a public law relationship between the parties in respect of the pension benefits and would have established the plaintiff's right for recovery. Hence, in case of the death of the person to be obliged to pay the benefits back, the relevant provisions of the Pension Benefits Act should also be applied to the procedural rights of the deceased person's successors. In the absence of any civil law relationship between the parties, the pension insurance institution was not entitled to bring a civil action against the defendants.

Proceeding upon the plaintiff's petition for judicial review, the Curia quashed the final judgement and ordered the court of second instance to reopen its proceedings. Based on the applicability (material scope) of the Pension Benefits Act, the reimbursement and indemnification rules thereof, in addition, section 7, subsection (1) of Act no. IV of 1959 on the Civil Code and section 1 of Act no. III of 1952 on the Code of Civil Procedure, the Curia established that since the pension insurance institution had not been in a position to oblige, in writing, a deceased person who had unduly received pension benefits for another person deceased earlier to pay the unjustly disbursed benefits back, the former could be entitled to bring a civil action against the defendants on the basis of the rules on unjust enrichment and succession.

Budapest, the 6th of April 2017

Civil Department of the Curia of Hungary