

Communication concerning the decision of the Curia of Hungary
in civil case n° Pfv.V.21.195/2013

In the event that the marketing authorisation of a hazardous pesticide is modified due to legislative changes and the modification alters the pesticide's conditions of use, the manufacturer and the distributor of the product concerned should not show disregard, but – even in the absence of a specific statutory provision – draw the customers and users' attention to the pesticide's new and changed use.

The second defendant is a pesticide manufacturer, while the first defendant is a pesticide distributor in Hungary. Their pesticide product involved in the present case is subject to marketing authorisation. The plaintiff intended to sell sunflower seeds to a third party, and treated the seeds with the defendants' pesticide before loading them onto a means of transport. The performance of the sales agreement, however, failed, because the buyer refused to take over the seeds due to the pesticide residue in them which exceeded the prescribed maximum level of residue and sent the consignment back to the plaintiff who suffered significant losses as a result of the failed agreement.

The first and second instance courts dismissed the plaintiff's claim for monetary compensation. Subsequently, the Curia of Hungary quashed the first and second instance judgements and ordered the first instance court to reopen its proceedings.

The Curia found that the pesticide's marketing authorisation in respect of the pesticide's residue level had been modified due to legislative changes. If this modification alters the chemical's conditions of use, the manufacturer and the distributor of the hazardous product should not show disregard, but – even in the absence of a specific statutory provision – inform the customers and users about the pesticide's new and changed use.

For its reopened proceedings, the first instance court was given the task to verify whether the modification of the marketing authorisation's content truly affected the product's conditions of use and, on that basis, to assess whether the defendants were under an obligation to inform the plaintiff about the pesticide's new and changed use.

Budapest, the 23rd of June 2014

Civil Department of the Curia of Hungary