

Communication concerning the decision of the Curia of Hungary
in the civil case n° Pfv.IV.20.863/2012

According to the relevant facts of the case, the plaintiff, employed in Hungary and of Romanian nationality, sustained a road traffic accident as a car passenger. The plaintiff's accidental damages were covered by the defendant insurance company. However, the plaintiff's loss of income claims and benefit claims could not be accepted by the defendant on the basis of the liability insurance scheme.

The plaintiff had been working for about two years in Hungary without having his/her employment relationship declared to the competent authorities, with no work permit, and without having his/her employer make advance payments of personal income tax and pay social security contributions after his/her work-income. The plaintiff claimed, inter alia, the compensation of his/her employment-related damages, and requested the defendant to take into account his/her work-income in determining his/her loss of income benefits. In its final judgement, the court of second instance rejected the plaintiff's claim for compensation of employment-related damages, and noted that there was no legal ground for such claim concerning the plaintiff's untaxed and illegally obtained work-income.

The Curia of Hungary set aside the above provision of the final judgement, and referred the case back to the court of second instance for reconsideration.

On the basis of the relevant case-law of the Curia of Hungary and that of its predecessor, the Supreme Court of Hungary, the Curia established that there shall be no legal ground for claims with the aim of obtaining compensation for loss of income if the work-income resulted from activities which were considered illegal activities, or even criminal acts or petty offences. However, working in itself could not be regarded as illegal activity, therefore, the plaintiff's actual work-income could be taken into account in determining the amount of the loss of income and benefit claims. On the other hand, the competent authorities shall be entitled, if the required conditions are met, to demand the ex post payment of income tax or social security contribution from either the employer or the employee. In conclusion, the Curia held that, independently from the irregularities of the employment relationship, work-income cannot be disregarded as the basis of loss of income claims and benefit claims.

Budapest, the 29th of October 2012

Press Office of the Curia of Hungary