

Communication concerning the decision of the Curia of Hungary  
in civil case n° Gfv.VII.30.204/2014

In an action seeking the declaration of invalidity of standard form contract terms the plaintiff requested the court to declare certain Business Rules and Business Rules provisions drafted and applied by the defendant invalid for alleged contravention of law and unfairness.

In its judgment the first instance court found for the plaintiff. By quashing most provisions of the first instance judgment the second instance court, having proceeded in the case upon the defendant's appeal, rejected the plaintiff's claims partly on the ground that the invalidity of Business Rules no longer applied at the time of filing the action could not be challenged in a public-interest action and could not be examined by the court, and partly on the ground that the plaintiff's extended claims were belatedly submitted.

The Curia, having proceeded upon the plaintiff's petition for judicial review, first of all had to determine the issue of law whether the second instance court had correctly concluded that the subject-matter of a public-interest action could only be the examination of the invalidity of Business Rules still in use at the time of filing the action.

In its partial judgment the Curia quashed this provision of the final partial judgment and in this respect it remitted the case to the second instance. The Curia held that the aim of the public-interest action was best served by an interpretation of the law that did not limit the time within which the declaration of invalidity could be sought in a public-interest action. Namely, from section II. 5. of Ptké. and from the provisions of PK vélemény (PK opinion) nos. 3/2011. (XII. 12.) and 2/2012. (XII. 10.) no conclusion stating that the examination of the invalidity of standard form contract terms no longer in use at the time of filing the action could be inferred.

The position of the second instance court that for procedural reasons the plaintiff's extended claims, which formed part of the subject matter of the judicial review proceedings, could not be examined on the merits was found to be correct by the Curia. This part of the decision, however, had no bearing on foreign exchange loans or on public-interest actions.

Budapest, the 10<sup>th</sup> of November 2014

Civil Department of the Curia of Hungary