

Communication concerning the decision of the Curia of Hungary in  
civil case number Pfv.IV.20.432/2018

The plaintiff, a sports association in the present case, brought a legal action against the defendant, a company in the case at hand. The plaintiff requested the court to establish that the defendant had violated its personality right to reputation and argued that the defendant had altered the emblem of its soccer team by way of removing the elements of its brand image and had unlawfully used the altered emblem in its activities.

The court of first instance rejected the plaintiff's claim. Proceeding upon the plaintiff's appeal, the court of second instance partially modified the first instance judgement and found that the defendant had violated the plaintiff's right to reputation by altering, without the plaintiff's prior consent, the emblem of an adult men's soccer team, competing in the Hungarian national championship, operated by plaintiff and by using the altered emblem from 3 July 2017, consequently, the court of second instance obliged the defendant to cease its infringing activities and give appropriate satisfaction, and banned the defendant from any future infringement in that regard.

Proceeding upon the plaintiff's petition for judicial review, the Curia of Hungary quashed the final judgement and upheld the first instance decision. The Curia essentially agreed with the viewpoint of the court of first instance. It pointed out that the fact that an organisation with separate legal personality had altered its own emblem based on its own decision could not objectively cause the violation of the right to reputation of another legal person. The defendant's contested conduct could not violate the plaintiff's right to reputation even if such conduct breached the provisions of the defendant's articles of association. In the case at hand, the alteration of the emblem does not violate in itself any personality rights. The unlawfulness of the defendant's conduct is due to a breach of its articles of association by one of its managers. The damage caused by a breach of the managerial obligations related to the company's operation, however, cannot be compensated by way of bringing an action for the protection of personality rights. In its claim, the plaintiff essentially sought to compel the defendant to comply with its obligations originating from the articles of association by way of requesting the court to apply the legal consequences emanating from the establishment of the violation of personality rights. Such legal consequences, however, cannot be applied to remedy a breach of the rules related to the defendant company's operation.

Budapest, the 28<sup>th</sup> of June 2019

Civil Department of the Curia of Hungary