

Communication concerning the decision of the Curia of Hungary in
civil case number Pfv.V.20.860/2019

In 2006, the plaintiff applied for a direct aid which could be granted by way of an individual Government decision. The aid grantor initially pledged a certain amount – within the statutory limits allowed – in support of the plaintiff's project, however, the competent intermediate body withdrew, in 2009, the Government's pledge, because the relevant provisions of Decree number 8/2007 (of 24 January 2007) of the Minister of Economy and Transport provided that a project resulting in a loss of jobs could not be granted any State aid.

In 2010, the plaintiff submitted an application for the financial support of his investments planned within the framework of the Economic Development Operational Programme of the New Hungary Development Plan. Following a call for the remedy of deficiencies, the intermediate body rejected the admission of the plaintiff's application, since the latter did not comply with the requirements of the call for applications and the guide for applicants. The plaintiff lodged, unsuccessfully, a complaint against the intermediate body's non-admission decision.

In his legal action alleging the violation of a number of European Union and Hungarian pieces of legislation, the plaintiff requested the court to oblige the first, third, fourth and fifth defendants to pay, jointly and severally, an amount of 129 159 031,- Hungarian forints as damages and the default interest thereof, moreover, to oblige the first and third defendants to pay an additional amount of 178 867 848,- Hungarian forints as damages and the default interest thereof.

The court of first instance dismissed the plaintiff's action. The court of second instance upheld the first instance judgement. The appellate court pointed out that the plaintiff had basically requested compensation for the damage allegedly suffered by him as a result of the non-conclusion of the grant agreements, but he had been unable to prove the necessary elements of the defendants' liability for damages. The court of second instance decided to refuse the plaintiff's motion to make a reference for a preliminary ruling, because the plaintiff's motion failed to indicate which specific European Union norms needed to be interpreted in respect of the statement of facts.

In his petition for judicial review submitted against the final judgement, the plaintiff requested the Curia of Hungary to quash the lower instance court decisions and give right to his action for damages. He also motioned for the Curia to make a preliminary reference to seek guidance as to the interpretation of a number of European Union norms.

Proceeding upon the petition for judicial review, the Curia held that there was no need to make a reference for a preliminary ruling, since the legal issue raised was not relevant to the adjudication of the case at hand. The European Union norms referred to by the plaintiff had, for several reasons, no relevance to the on-the-merits decision on the plaintiff's action. State aid is not provided as an automatic right. If the conditions of granting, as set forth by the relevant pieces of legislation and the call for applications, have not been met, then no aid can be granted. In such cases, the loss of the opportunity to be granted an aid cannot entail any liability for damages. The plaintiff's failure to prove the existence of the necessary elements of the defendants' liability for damages results in the dismissal of the plaintiff's claims for compensation on the basis of each of the legal grounds invoked. The European Union legal issues raised by the plaintiff are of no relevance to the legal action, in addition, there is no need to address them by way of a preliminary ruling to be given by the European Court of Justice, as the interpretation to be delivered by the latter would have no bearing on the on-the-merits adjudication of the legal dispute at hand.

Budapest, the 27th of January 2020

Civil Department of the Curia of Hungary