

Communication concerning the decision of the Curia of Hungary
in the administrative case n° Kfv.III.37.808/2012

In 1994, the plaintiff was granted authorisation to operate water facilities to ensure the industrial water supply of its sites. Until 2010, the public sewer services company took samples of the wastewater discharged from the above sites on the same spot. The environmental authority imposed a sewage fine on the plaintiff for polluting, during the 2010 operational period, the sewer system with wastewater containing harmful substances in a quantity exceeding the prescribed volume threshold. The decision of the environmental authority was upheld by the defendant.

The first-instance tribunal rejected the plaintiff's claim submitted against the decision of the defendant, and argued that the sampling spot had been designated lawfully in accordance with the relevant provisions of the operating authorisation for water use.

In the petition for judicial review, among other matters, a reference for a preliminary ruling to the Court of Justice of the European Union was requested by the plaintiff, because he reasoned that the decisions delivered by the administrative authority and the tribunal had violated European Union law.

As to the merits of the case, the Curia agreed with the reasoning of the first-instance court, while regarding the preliminary ruling procedure, it explained with reference to the case-law of the European Court of Justice that the relevant national procedural rules did not entitle the parties in the judicial review proceedings to invoke new violations of law. In the present case, the plaintiff had not referred to any violation of European Union law in the previous phases of the proceedings, he did so only in his petition for judicial review. Furthermore, the national procedural rules did not exclude or complicate the application of European Union law.

Budapest, the 12th of July 2013

Administrative and Labour Department of the Curia of Hungary