KOVÁCS RÉTI SZEGHEŐ
ÜGYVÉDI IRODA

Succession in Lawsuits Initiated by Executive Officers

In a recent decision, the Curia of Hungary clearly established that in lawsuits brought under Section 3:35 of the Civil Code (Ptk.), which allow for judicial review of a legal entity's decisions, the right to sue is strictly personal and cannot be transferred if the executive officer's legal relationship terminates during the proceedings.

Under Section 3:35 of the Ptk., the executive officers or supervisory board members of a legal entity may request the court to annul resolutions adopted by the members, founders, or corporate bodies if the resolution violates the law or conflicts with the articles of association.

In the case underlying the Curia's ruling, the plaintiff, acting as the managing director of a limited liability company, filed a lawsuit seeking judicial review of the company's resolutions. After initiating the proceedings, the plaintiff's executive mandate ended due to resignation. The first-instance court therefore dismissed the case. The company's newly elected executive officer attempted to step into the ongoing lawsuit as the plaintiff's successor, but both the appellate court and the Curia rejected this request.

The Curia emphasized several key points:

- An executive officer must perform their duties personally and is independently liable for the management activities they carry out.
- Upon termination of the executive mandate, all personal rights associated with the position—including the right to initiate a lawsuit—cease automatically. Therefore, the executive officer's mandate must remain valid for the entire duration of the proceedings.
- Executive officers appointed at different times cannot be considered legal successors of one another in substantive law.
- A newly elected executive officer cannot step into an ongoing lawsuit initiated by their predecessor, because their mandate is a new legal relationship rather than a continuation of the previous one.

The Curia highlighted that an executive officer is personally responsible for managing the entity and for any damages caused by their management activities. The termination of the mandate—whether due to expiration, death, recall, resignation, limitation of legal capacity, or the occurrence of a disqualifying factor—does not transfer the predecessor's rights to the newly appointed executive. The new officer must establish a separate mandate and is personally liable for his own management actions.

Consequently, if an executive officer's mandate ends for any reason during ongoing proceedings, the new officer cannot continue the existing case on his behalf. Any claim must be pursued through a new lawsuit.

This decision confirms that in lawsuits for judicial review under Section 3:35 of the Civil Code, the right to initiate proceedings is strictly personal, Therefore, if during such a lawsuit the executive officer's mandate is terminated for any reason, the newly elected executive officer cannot join the lawsuit due to the lack of legal succession. The new executive officer must therefore initiate a new proceeding in this case.