


Hungary, Budapest Regional Court of Appeal, 2.Pf.20.516/2019/4. (judicial reputation) appellate, 2019

Member State

 Hungary

Topic

Independence

Deciding Court Original Language

Fo?városi Ítélo?tábla

Deciding Court English translation

Budapest Regional Court of Appeal

Registration N

2.Pf.20.516/2019/4.

Date Decision

19 September 2019

Subject Matter

A news outlet violated a judge's right to reputation by publishing an article which called into question the independence of the judge by claiming that certain extrajudicial activities of the judge were of political nature and critical of the government. The Hungarian courts awarded pecuniary compensation for the moral damages the judge had suffered.

Legal issue(s)

Judicial independence, reputation of judges, political activity of judges, the limits of acceptable criticism of judges

Request for expedited/PPU procedures

No

National Law Sources

- The Fundamental Law of Hungary - Article C(1)
 - Act CLXI of 2011 on the Organisation and Administration of Courts
 - Act V of 2013 on the Civil Code
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Facts of the case

A news outlet published an article printed and online about a judge in which the independence of the judge was called into question. The impugned articles listed several activities of the judge: he participated in professional events organized by human rights NGOs, did some expert work for the Hungarian Helsinki Committee in relation to the Hungarian criminal codification, and in social media, he posted, liked, shared or commented on critical opinions about the government and the National Office for the Judiciary (NOJ). The contents in relation to the NOJ concerned the activity of the President of the Office and the conflict between the Office and the judicial self-governing body, the National Judicial Council.

The impugned articles discussed these extrajudicial activities in order to demonstrate that the judge “conduct political activity against the government” and “publish opinions critical of the government”.

Reasoning (role of the Charter or other EU, ECHR related legal basis)

The Hungarian courts concluded that by publishing the two above-mentioned statements the news outlet violated the right to reputation of the judge and awarded compensation for him

The appeal court found that sharing critical content about the National Office for the Judiciary cannot be considered as political activity as according to the principle of separation of powers declared by the Fundamental Law of Hungary, the NOJ as a body responsible for court administration is separated from the executive branch. Also, the appeal judgment held that other online activities of the judge (for instance “liking” or sharing certain contents”) cannot be regarded as political activity against the government either, considering the shared pictures, content and the specific nature of “liking” in the online world. Furthermore, the appeal court pointed out that participating in professional events and doing expert work for an organization do not substantiate the claim about the lack of independence on the part of the judge. The articles in question, however, suggested for the ordinary reader that due to the work done for these organizations, the judge lacked independence.

The courts also held that even if judges are public figures they do not have to tolerate false allegations and unfounded inferences drawn from them.

The appeal court added that the Code of Ethics invoked by the respondent was not relevant in this court proceeding about the right to reputation of a judge.

The appeal court did not agree with the first instance court on the finding that the judge appeared in the social media as a private person. Judicial independence entails that judges should adhere to this principle and should protect the reputation of the judicial office even if they appear in the online sphere without indicating their judicial status. Under certain circumstances, it is not possible to make a difference whether a judge acts within his judicial capacity or as a private person.

Both courts emphasized that any allegation about the lack of independence in itself causes grave harm to a judge as judicial independence is of fundamental importance in the administration of justice.

Impact on Legislation / Policy

Irrespective of this decision, pro-government media continues to attack judges who deliver judgments detrimental to the interest of the government.

(Link to) full text

<https://eakta.birosag.hu/anonimizalt-hatarozatok?azonosito=Pf.20516/2019/4&birosag=F%C5%91v%C3%A1rosi%20%C3%8Dt%C3%A9l%C5>

Author

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History of the case: (please note the chronological order of the summarised/referred national judgments.)

1. Decision no. P. 23483/2018/14 of the Metropolitan Court
 2. Decision no. 2.Pf.20.516/2019/4. of the Budapest Regional Court of Appeal
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