

The Curia
as the court of review
delivers the following
j u d g m e n t

Case number: Pfv.IV.20.702/2015/11

Members of the Council:

Dr. András Baka, President of the Panel
Dr. Katalin Böszörményiné Kovács, Judge-Rapporteur
Dr. Árpád Pataki, Judge

Claimant: ...

Legal Representative of the Claimant

Dr. Tünde Fekete, Public Defender

Defendants:

Municipality of Pécs, First Defendant
Baranya County Child Protection Centre, Second Defendant
MIOK Foundation for Disadvantaged People, Fourth Defendant

Legal Representatives of the Defendants:

[Name Redacted], Legal Counsel for the First Defendant
[Name Redacted], Legal Counsel for the Second Defendant
Dr. Gabriella Révész, Attorney for the Fourth Defendant

Subject Matter of the Lawsuit: Damages

Party Submitting the Petition for Review: The Claimant

Name of the Court of Second Instance and Reference Number of the Final Decision:

Pécs Court of Appeal, Pf.III.20.089/2014/13

Name of the Court of First Instance and Reference Number of the Decision:

Pécs Regional Court, 11.P.20.988/2010/112

Ruling Section

The Curia upholds the final judgment in the contested part subject to the review.

The Curia orders the claimant to pay procedural costs of HUF 15,000 (fifteen thousand) to the first defendant and HUF 10,000 (ten thousand) to the fourth defendant within 15 days.

The HUF 633,400 (six hundred thirty-three thousand four hundred) review procedure fee that has not been paid, as well as the fee for the claimant's public defender, shall be borne by the state.

No further review is available against this judgment.

R e a s o n i n g

Facts Underlying the Petition for Review

[1] In an agreement dated 17 December 2004, the first defendant undertook to make available to the third defendant a property located at the [Name Redacted] mine. The third defendant, with the involvement of young people participating in the programme, was to refurbish the apartments and then lease them to programme participants for an indefinite period at a rent below market value. On 21 March 2005, the claimant signed an agreement with the third defendant, who undertook to provide the claimant with accommodation under the Lakmusz Programme, which was established to promote the labour market and social integration of young adults who had left child protection care upon reaching the age of majority or had been receiving aftercare services. Under this programme, the third defendant agreed that from 31 December 2005, the claimant would be accommodated in one of the 15 newly renovated apartments, receive training in construction work, be provided with regular employment during the programme, and have access to mentors and social workers to address concerns and grievances. In return, the claimant undertook to contribute HUF 1,000,000 from a housing support grant to the successful completion of the programme, enter into a training and employment contract with the third defendant, and actively participate in the programme's support system. A vocational training contract was concluded on 1 March 2005, under which the claimant was to obtain a qualification in construction work over a five-month period. On 29 June 2005, the claimant successfully passed the final examination. On 1 March 2005, the claimant and the third defendant signed an employment contract effective until 30 December 2005, under which the third defendant employed the claimant as a semi-skilled construction worker for four hours per day, with a base salary of HUF 28,500 per month.

[2] On 1 April 2005, the third and fourth defendants entered into a cooperation agreement, under which the fourth defendant undertook to assist the third defendant free of charge in implementing the projects and programmes specified in the contract annex.

[3] The claimant, along with other selected individuals, moved into the property in December 2005. On 14 December 2005, the claimant signed a residential lease agreement with the first defendant, effective until 31 December 2010, stipulating that no rent payments were due until 31 December 2006. However, the claimant permanently vacated the property in March 2006 and did not return.

The Claim and the Defendants' Defence

[4] In the statement of claim, the claimant sought a declaration that the defendants violated their right to equal treatment, human dignity, rest, physical integrity, health, and social security. The claimant requested that the defendants be held jointly and severally liable for the payment of HUF 5,000,000 in non-pecuniary damages, and, as pecuniary damages, compensation for the failure to secure housing in the amount of HUF 995,000 from the housing support grant plus default interest, HUF 950,000 as remuneration for work performed on the construction, and HUF 384,000 for the loss of aftercare services.

[5] The defendants, in their substantive defence, sought the dismissal of the claim.

Judgments of the First and Second Instance Courts

[6] The court of first instance found that the defendants violated the claimant's right to non-discrimination and social security by relocating them in 2005 to a property owned by the first defendant at [address redacted]. The court ordered the defendants to pay HUF 3,995,000 in damages to the claimant within 15 days, rejecting the remainder of the claim.

[7] In its reasoning, the first-instance court stated that the claimant had been unlawfully segregated, as they were provided housing in a location where social reintegration was virtually impossible, despite using their own housing support grant for the accommodation.

[8] The court also found a violation of the claimant's right to social security, as the programme and its implementation had the opposite effect to what had been planned, ultimately placing the claimant in worse social conditions than before.

[9] The court rejected the claim regarding violations of the right to rest and work, stating that the defendants were not the claimant's employers. Additionally, it did not find sufficient grounds for the violation of physical integrity and health rights, as there was no direct causal link between the defendants' actions and the claimant's condition.

[10] The court found that the first, third, and fourth defendants had actively participated in selecting the property but failed to supervise its renovation and maintenance. The second defendant should have foreseen that the claimant would not be able to integrate into society under the provided conditions. The court assessed that HUF 3,000,000 was required to compensate for the claimant's non-pecuniary damages under the prevailing economic conditions.

[11] Among the pecuniary damage claims, the court ordered the defendants to reimburse the claimant for the housing support grant, as it could no longer be used for securing future accommodation. However, the court dismissed claims for unpaid wages for work performed and compensation for the loss of aftercare services.

[12] Following appeals by the claimant and the first, second, and fourth defendants, the court of second instance partially modified the first-instance judgment in the contested part and completely dismissed the claim against the fourth defendant. The court revoked the finding of a personality rights violation against the first and second defendants and reduced the damages payable jointly and severally by the first to third defendants to HUF 995,000 plus default interest from 1 April 2006. The claimant was ordered to pay procedural costs of HUF 100,000 each to the first and second defendants and HUF 150,000 to the fourth defendant for the first-instance proceedings. The court also revoked the liability of the fourth defendant for state-advanced costs and reduced the joint and several liability of the first to third defendants for these costs to HUF 61,500. Regarding legal representation costs, the court modified the ruling so that the first and second defendants were jointly and severally liable for 10% of the legal aid attorney's fee, while the claimant had to bear the remaining 90%. The claimant was also ordered to pay HUF 50,000 each to the first and second defendants and HUF 75,000 to the fourth defendant for the second-instance proceedings. The legal aid attorney's fee for the second-instance proceedings was apportioned 25% to the first and second defendants (jointly and severally) and 75% to the claimant.

[13] The Court of Appeal noted in its reasoning that the Budapest-Capital Regional Court had ordered the liquidation of the third defendant; however, as of the date of the second-instance judgment, the third defendant had not yet been removed from the records. The Court of Appeal omitted the findings of the first-instance court concerning the renovation of the disputed property and supplemented the established facts with information regarding the use of the housing support grant. It also noted that on 15 November 2006, the claimant had contacted the Vas County Territorial Child Protection Service and reported their concerns to the Municipality of Pécs Mayor's Office.

[14] The court clarified that the lawsuit did not concern a general evaluation of the Lakmusz Programme implemented in Pécs, but rather an assessment of the defendants' conduct, as alleged by the claimant, regarding personality rights violations and damages. The court examined whether the defendants were responsible for the circumstances leading to the claimant's withdrawal from the programme and their failure to prevent such circumstances. The Court of Appeal disagreed with the first-instance court's finding that the property was uninhabitable at the time of occupancy. It pointed out that an occupancy permit had been issued, and expert opinions indicated that while some work had been of lower quality, this did not render the building unfit for habitation. Photographic evidence taken at the time of occupancy also confirmed that the apartments were in an adequate condition. Although the first defendant, as the landlord, was responsible for maintaining the building, preserving its condition, and ensuring the functionality of its central systems, the serious issues affecting habitability, such as water damage and mould, only arose well after the claimant had moved out, according to witness testimony. Thus, no causal link was established between the landlord's failure to maintain the property and the claimant's withdrawal from the programme. Additionally, the claimant's letters written after moving out did not mention any property defects as a reason for their departure.

[15] The first and second defendants were aware that the programme participants were young people with inadequate socialisation skills, lacking independence and familiarity with community rules. Moving these individuals, including the claimant, into the property during winter, when they had no financial savings, no local job opportunities, and significant transportation difficulties in reaching distant workplaces, doomed the programme to failure from the outset. The aftercare system, described in the project documentation and individual contracts, was insufficient to counteract these disadvantages. The defendants failed to exercise the expected diligence and prudence in preparing and concluding the contracts, which resulted in the claimant spending their HUF 1,000,000 housing support grant on a programme incapable of achieving its stated objectives. As there was no legal possibility to reclaim the grant at the time, the claimant lost the opportunity to use it for securing housing and integrating into society. Consequently, the first and second defendants were held jointly and severally liable under Sections 205(3), 205(4), 318(1), and 339(1) of the Civil Code and were ordered to pay HUF 995,000 from the housing support grant as compensation, along with default interest.

[16] The third defendant was placed into liquidation during the first-instance proceedings. The claimant did not file their claim with the liquidator, resulting in the loss of their claim against the third defendant. However, since the third defendant did not raise this issue in the first-instance proceedings and did not appeal the

judgment, it could not be excluded from liability in the second-instance proceedings, particularly because no necessary joinder of parties existed among the defendants under Section 51(a) of the Code of Civil Procedure.

[17] The fourth defendant was essentially a subcontractor engaged by the third defendant to fulfil its contractual obligations towards the claimant. Consequently, any claims arising from the third defendant's failure to meet contractual obligations could only be pursued against the third defendant, not the fourth defendant. Therefore, the claim for pecuniary damages against the fourth defendant was unfounded.

[18] The Court of Appeal upheld the first-instance court's rejection of claims for additional pecuniary damages exceeding the amount of the housing support grant.

[19] The court held that the first, second, and fourth defendants did not violate the claimant's personality rights. The programme's failure and the loss of its benefits due to poor implementation did not amount to a breach of the principle of equal treatment. The claimant participated in the programme due to their protected status, but the harm suffered was not due to this protected status, rather the programme's poor execution.

[20] There was no evidence that the claimant suffered disadvantages related to the core attributes of their personality, and thus no violation of human dignity could be established.

[21] The court of second instance agreed with the court of first instance that the plaintiff's health and physical integrity were not harmed by the defendants' conduct.

[22] The right to social security and the right to rest are not rights related to the personality of a person, but are so-called social rights, which are part of human or civil rights. It is the State which is primarily responsible for these rights and which must guarantee political freedoms and economic, social and cultural rights.

[23] The Court of Appeal excluded the liability of the first, second, and fourth defendants for non-pecuniary damages, as there was no established personality rights violation forming the basis of such claims. Consequently, the claimant's cross-appeal requesting an increase in non-pecuniary damages was also rejected.

The Petition for Review and Counter-Submissions

[24] The claimant filed a petition for review against the final judgment, seeking its modification and the joint and several

liability of the first, second, and fourth defendants for the payment of HUF 5,000,000 in non-pecuniary damages, plus default interest from 1 April 2006, along with an additional HUF 950,000 and HUF 384,000 in pecuniary damages. The claimant requested a declaration that the defendants violated their rights to human dignity, rest, physical integrity, health, freedom from discrimination, and social security.

The claimant also noted that they had already received the full amount of the housing support grant, including interest, and therefore requested that this part of the judgment remain unchanged.

[25] The claimant criticised the Court of Appeal for violating its procedural duty under Section 3 of the Code of Civil Procedure, alleging that it failed to provide proper information, disclose relevant documents, and establish the facts correctly. The claimant argued that the municipality and other defendants were wrongly absolved of liability for personality rights violations due to a one-sided and erroneous evaluation of evidence. The claimant contended that the final judgment was in breach of Section 206 of the Code of Civil Procedure, as the court had acted unreasonably and misinterpreted both the evidence and applicable legal provisions. Furthermore, although the court had rejected the claim regarding violations of social security and other personality rights, it nonetheless held the first and second defendants financially liable for the housing support grant, creating an inconsistency in legal reasoning.

[26] The claimant argued that the final judgment's reasoning actually supported the award of non-pecuniary damages, as it referred to the defendants' lack of due diligence, the unsuitable location of the property, and the housing of socially disadvantaged young people together in an unworkable arrangement. However, the court failed to apply the principle of damages correctly under Section 339 of the Civil Code. The claimant also stated that they had lodged an application with the European Court of Human Rights, alleging violations of their right to a fair trial and to proceedings concluded within a reasonable time.

[27] The claimant argued that the defendants acted in concert when they selected the property, constructed it with severe deficiencies, allocated the units through lease agreements, and provided employment to the residents without proper qualifications. The claimant also asserted that the final judgment lacked sufficient reasoning, particularly failing to explain the rejection of the arguments submitted in their cross-appeal.

[28] The claimant further contended that the final judgment violated Section 339 of the Civil Code by incorrectly severing the chain of causation. The damages were not solely caused by the claimant's departure from the property, but rather by a combination of

circumstances, including the failure of the programme, its deficiencies, the location and condition of the property. The claimant disputed the conclusion that the third defendant bore sole responsibility, arguing that the fourth defendant took over responsibilities, issued invoices in its name for the construction, and signed the vocational training contract. Additionally, the municipality had purchased the property and signed the lease agreements, making it responsible for maintenance and upkeep. The claimant emphasised that the property was located in a highly segregated area with poor infrastructure, high unemployment, low-quality housing, and low educational attainment levels among residents. Expert opinion supported the claim that the property was unfit for habitation even at the time of occupancy. The claimant also argued that their right to health was violated, as poor insulation and unhealthy living conditions prevented proper rest. Finally, the claimant challenged the finding that the diminished benefits of positive discrimination did not constitute a violation of equal treatment. The claimant also disputed the court's classification of the right to social security and rest as social or civil rights rather than personality rights.

The Curia's Decision and Legal Justification

[29] The petition for review was found to be unfounded for the following reasons.

[30] The Curia reviewed the final judgment within the limits set by Section 275(2) of the Code of Civil Procedure, meaning it only examined the issues raised in the petition for review and the counter-submissions. Accordingly, the Curia did not review the claims against the third defendant or the awarded HUF 995,000 in pecuniary damages and its interest.

[31] Under Section 270(2) of the Code of Civil Procedure, a petition for review may only be granted in cases of legal error. Pursuant to Section 272(2) of the Code of Civil Procedure, a petition must identify the decision being challenged, specify the desired outcome, and clearly state the legal error, including references to the violated legal provisions.

[32] The Curia reviewed the final judgment in accordance with the legal violations and arguments raised by the claimant in the petition for review.

[33] The claimant argued that the Court of Appeal violated its procedural duty under Section 3 of the Code of Civil Procedure by failing to provide sufficient information. However, a procedural violation only warrants the annulment of a final judgment if it has a substantial impact on the merits of the case.

[34] Since the liquidation proceedings against the third defendant

were initiated independently of any notification by the Court of Appeal, and the court merely conveyed the available information to the parties, this claim did not establish a legal error in the final judgment.

[35] The Court of Appeal properly assessed the case facts under Section 206(1) of the Code of Civil Procedure, and its decision contained no contradictory findings or unreasonable conclusions. Therefore, no grounds were found for reassessing the evidence.

[36] The claimant challenged the final judgment for failing to establish that the defendants violated their rights to non-discrimination, human dignity, social security, rest, physical integrity, and health. However, the Court of Appeal correctly determined that the claimant's allocated housing was not uninhabitable at the time of handover—a conclusion supported by expert opinions and photographic evidence. Furthermore, the claimant's own letters confirmed that they vacated the property for reasons unrelated to its condition.

[37] The Court of Appeal correctly applied the provisions of the Equal Treatment Act. Under Section 9 of the Act, discrimination constitutes a violation of the principle of equal treatment only if it occurs due to a characteristic listed in Section 8. The Curia agreed with the lower court's finding that while the claimant, as a former ward of state care, possessed a protected characteristic, the harm suffered was not due to this status but rather the flawed implementation of the programme. The Equal Treatment Authority also determined that a violation of equal treatment requires a proven causal link between the protected characteristic and the harm suffered, which was not established in this case. Consequently, the Authority declined jurisdiction and referred the claimant's complaint to the supervising state secretary responsible for the programme.

[38] The claimant's allegation of a violation of their human dignity under Section 76 of the Civil Code was unfounded. A breach of human dignity occurs when an individual is demeaned or humiliated due to fundamental aspects of their personality. The claimant failed to present any factual basis supporting such a claim, and no unlawful conduct on the part of the defendants was established.

[39] The claimant also alleged a violation of their right to social security and rest.

Under Article 70/E(1) of the Constitution of Hungary, citizens are entitled to social security in cases of old age, illness, disability, widowhood, orphanhood, or involuntary unemployment. Article 70/E(2) provides that the state fulfils this right through social security and institutional frameworks. Additionally, Article 70/B(4) states that everyone has the right to rest. However, these constitutional provisions merely declare fundamental rights and do not impose

specific obligations on the defendants. Therefore, the Court of Appeal correctly ruled that the defendants were not responsible for ensuring these rights.

[40] The Curia agreed with the Court of Appeal that the defendants did not violate the claimant's physical integrity or health. Since no unlawful conduct was established, the claimant's claim for non-pecuniary damages was unfounded. Moreover, judicial expert opinions found no evidence of a causal link between the defendants' conduct and any psychiatric harm suffered by the claimant.

[41] Regarding the claim for damages related to work performed on the construction site, the Curia fully concurred with the lower courts. The defendants did not engage in any unlawful conduct, and in the absence of the conditions set forth in Section 339(1) of the Civil Code, they could not be held liable for damages.

[42] The claimant also sought compensation for the benefits associated with aftercare services. However, both the court of first instance and the court of appeal correctly concluded that the claimant could have accessed these benefits whether they remained in the ..allocated housing or relocated elsewhere. Therefore, in the absence of unlawful conduct and causal connection, the defendants could not be held liable for damages related to the claimant's exclusion from aftercare services.

[43] As a result, no violation of Section 339(1) of the Civil Code was established. The Court of Appeal properly assessed the conditions for awarding damages and, based on correct legal reasoning, rejected the claimant's damages claim.

[44] The Court of Appeal correctly interpreted the legal relationship between the third and fourth defendants and rightly concluded that the fourth defendant acted as a subcontractor performing delegated tasks. Consequently, the claimant's claim for damages against the fourth defendant was unfounded.

[45] Based on the foregoing, the Curia upheld the final judgment in accordance with Section 275(3) of the Code of Civil Procedure.

Closing Section

[46] Pursuant to Section 78(1) of the Code of Civil Procedure and Sections 3(2) and (5) of Decree 32/2003 (VIII.22.) of the Ministry of Justice, the Curia ordered the claimant to pay the defendants' costs of the review proceedings.

[47] In accordance with Section 87(2) of the Code of Civil Procedure, the Curia determined that the state would cover the costs of the claimant's legal aid lawyer. Since the claimant was granted cost exemption, the unpaid court fee

for the review proceedings would be borne by the state under Section 14 of Decree 6/1986 (VI.26.) of the Ministry of Justice.

[48] The Curia heard the claimant's petition for review at an oral hearing, as requested by the claimant, in accordance with Section 274(1) of the Code of Civil Procedure.

Budapest, 6 April 2016

Dr. András Baka s.k., Presiding Judge, Dr. Katalin Böszörményiné Kovács s.k., Judge-Rapporteur, Dr. Árpád Pataki s.k., Judge

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