Budapest-Capital Regional Court
22.P.20.062/2015/2.

Budapest-Capital Regional Court

represented by Dr. Péter Buczkó (address.), attorney
name of plaintiff (address.) **to plaintiff**,

represented by .....
name of defendant I.(address.) d**efendant I. ("first defendant"),**
name of defendant II. (address) against **defendant II. ("second defendant")**

in its claim seeking **press correction,** has delivered the following

j u d g m e n t

The Court rejects the plaintiff's claim.

The Court orders the plaintiff to pay a legal fee of HUF 20,000 (twenty thousand) to the defendants jointly and severally within 15 days.

The unpaid court fee of HUF 36,000 (thirty-six thousand) shall be borne by the State.

An appeal against this judgment may be filed within 15 days from the date of service. The appeal must be submitted to this Court in three copies.

Before the expiration of the appeal deadline, the parties may request the appellate court to decide on the appeal without a hearing.

The Court informs the parties that the appellate court may decide the appeal without a hearing if the appeal pertains solely to the payment or amount of court costs, challenges only the reasoning of the judgment, or if the parties jointly request such a procedure.

Reasoning

A .... Reginal Court, in its judgment No. ...G../22, issued on February 28, 2014, established that during the operation of the ... school, children were unlawfully segregated based on their nationality. This judgment was upheld by the ... Court of Appeal in its decision No. Gf.I.../2014/10, dated November 6, 2014. During the first-instance proceedings, the Court heard the plaintiff Ministry's leader, Minister ..., as a witness.
On November 6, 2014, commenting on the appellate court's decision, the plaintiff issued a press

release through the ... State Secretariat. The press release stated that the activities of the organization initiating the lawsuit resulted in "... many children being deprived of access to high-quality education that they previously had no chance of receiving before the establishment of the school." The statement condemned segregation but concluded that "the case of the ... school highlights the need to examine the lawful ways of operating schools that support disadvantaged children through compensatory education, preparing them to successfully participate in integrated education later."

On November 18, 2014, a proposal to amend the Public Education Act was submitted to Parliament. One provision would authorize the Minister to establish the specific conditions for organizing religious, ideological, and nationality-based education by decree, referring to the requirements set forth in the Equal Treatment Act.
An article titled "The Government Legalizes Racial Segregation in Hungary. In Other Words: Racism" appeared in the Népszabadság newspaper (edited by the I. defendant) and on the ...news portal (II. defendant) on ... 2014. The article stated:

"We could use the term discrimination against the disadvantaged, but the term, familiar from the American civil rights struggle, describes what we are talking about much more accurately. There are blacks and whites or Roma and non-Roma, that's the basis of the separation.
In America, this segregation has been abolished in recent decades, and in Hungary it is now being enacted into law**.** It is not being introduced, because it was already a practice, but at least it was prohibited. You could not run schools that separated Roma and majority children. However, there were still many who ran such schools, churches and local authorities used hundreds of tricks to have separate buildings for Roma and non-Roma in a given area, or at least separate parts of buildings, or if that was not possible, separate classes for Roma and non-Roma.

As this practice was contrary to several international conventions, the Constitution and the Public Education Act (as well as religious and moral standards), the Hungarian courts have consistently ordered the maintenance authorities to desegregate. Most recently, in the case of a .... school which served to segregate Roma children rather than integrate them. The Minister for Human Resources has repeatedly expressed his support for this school, which he intended to segregate.

In the end, the court did not rule in favour of the school and the church, but in favour of the rights defenders, who proved that the school is ultimately segregated, which necessarily means the perpetuation of social disadvantage, even if the church and government leaders who believe in segregated catch-up education in Hungary alone hope otherwise. Research findings and scientific evidence refute them.

Racial segregation, by its very segregation, deprives people of the chance of effective inclusion and social integration. This is why it is also opposed by those who do not start from ethical-religious principles. Integration is not easy. But the civilised world has come to the conclusion that it is within this framework that the problem must be solved. What is the ministry's response to the court's finding that it is illegal because it promotes segregationist practices? Exactly the same as when the Constitutional Court ruled a law unconstitutional.

Unconstitutional? Fine, we'll write our truth into the constitution. Or "fundamental law", as they call it. They, Fidesz, do everything with muscle. Even after the condemnation of ... segregation: they legalize segregation**.** The government has slipped a paragraph into the amendment to the Public Education Act that allows the minister to decide for himself which institutions can segregate Roma children under the heading of "remedial or developmental education".

As a state of emergency. There is the general right to suspend. It is forbidden to detain someone without trial, but exceptionally we allow the minister, the general, the commander-in-chief to decide for himself who should be detained for how long. It is forbidden to restrict freedom of speech, but we allow the Secretary General, the Governor General, the President to decide for himself which opinions should be censored.

....you will decide when racial segregation can be applied in Hungary. The tenacity with which you have got this far is astonishing. In fact, this was the issue you fought for most consistently during your time as minister. To legalise segregation. That too has been done."

On 19 December, the plaintiff sent a request for restitutio in integrum to the defendants. In it, they requested the defendant to publish the following rectification:
"Correction"
"We wrongly claimed that the plaintiff is naming and shaming, legalising racial segregation, legalising segregation in Hungary, and that the Minister of ....Ministry ... will decide for himself when racial segregation is applicable in Hungary."

Specifically, he objected to the parts of the article highlighted below.
"The Government Legalizes Racial Segregation in Hungary. In Other Words: Racism"
"... this segregation has been abolished in recent decades, and in Hungary it is now being enacted into law "
"What is the ministry's response to the court's finding that it is illegal because it promotes segregationist practices? "
"...legalize segregation."
"....you will decide when racial segregation can be applied in Hungary."
"legalise segregation. That too has been done."

Since the defendants failed to comply with the request, the plaintiff, in a motion received on January 8, 2015, asked the court to order the defendants to publish the requested correction.
In response to the defendants' defence, the plaintiff argued that the contested statements made by the defendants cannot be regarded as opinions. The statements do not stem from the sociological understanding of segregation but rather refer specifically to forms of segregation that are unacceptable in the eyes of the average reader. The defendants explicitly made factual assertions, given the context, phrasing, and grammatical structure used in the highlighted parts, when they claimed that the plaintiff legalizes segregation.
The verifiability test supports this argument because the statements are factual assertions that can be proven or disproven. The plaintiff also referred to established judicial practice, which in several cases has considered statements that link public figures to certain ideologies as factual assertions. This further supports the claim that the contested statements are explicit factual assertions and are false. The articles misrepresent the purpose and content of legislative amendments following the court judgments.
The documents submitted by the defendants are irrelevant to the determination of this case. Among the referenced articles, Eduline did not reach the same conclusions as the defendants. Moreover, if other articles also contain false statements, this fact does not substantiate the defendants' defence. The article in question did not analyse the court decisions, and the judgments hold no relevance to the contested statements highlighted by the plaintiff.

The defendants requested the dismissal of the claim, primarily arguing that the article in question consists entirely of value judgments. They contended that the statements are neither offensive in expression nor factually unreasonable conclusions. According to Position Statement No. Pk. 12, in such cases, there is no basis for a correction.

In support of the reasonableness of the opinions, pursuant to Section 12 of the *Smtv.* (hereinafter "Press Act"), the defendants submitted judgment No. 10.G.15-.../22 issued by the Trial Court on February 28, 2014, in which the court established that during the operation of the ... school, children were unlawfully segregated based on nationality. This judgment was upheld by the Court of Appeal in its second-instance decision No. Gf.I.../2014/10, dated November 6, 2014. The defendants also referred to the first-instance proceedings, where the Minister leading the plaintiff ministry testified as a witness. The Minister expressed the view that segregation aimed at supporting the educational development of Roma children was acceptable and necessary in this case. The defendants also submitted the plaintiff's press release issued on November 6, 2014, concerning the appellate judgment. In this release, the plaintiff emphasized the need to explore lawful measures to provide compensatory education for disadvantaged children. The defendants further attached the amendment to the Public Education Act, which authorized the Minister heading the plaintiff ministry to issue a decree establishing specific conditions for implementing the principles of the Equal Treatment Act in religious, ideological, and nationality-based education. The defendants argued that the causal connection expressed and discussed in the article arises explicitly from the plaintiff's press release and the subsequent legislative amendment. Upon the issuance of the ministerial decree, they contended, there would no longer be any basis for deeming segregation at the school in Huszártelep unlawful, as the decree would provide its legal foundation. The defendants maintained that the article as a whole constitutes a value judgment on this legislative process and must not be construed as conveying false factual assertions. They further provided similar articles published in the media, including pieces from other outlets such as *Eduline.hu*, which also concluded that the amendment to the Public Education Act was specifically designed to allow segregation in schools lawfully. This, according to the defendants, supports the claim that their article represents an opinion, which the plaintiff is obliged to tolerate. They emphasized that the article formulates a viewpoint, a value judgment, and a logical conclusion regarding the legislative process, which should be protected, particularly in light of the fundamental principle of freedom of expression.

The plaintiff's claim is unfounded.

The court established the facts based on the submitted documents and the statements of the parties.

According to Section 12(1) of the Press Act, a media publication states or disseminates false facts about a person or presents true facts about them in a misleading context, the affected party may request the publication of a corrective statement. The statement must indicate which parts of the publication are false or unfounded, or which facts are presented in a misleading way, and specify the actual facts in contrast.

Under Section 12(2), in the case of daily newspapers, online media products, and news agencies, the corrective statement must be published within five days of receiving the request, in a manner and extent similar to the disputed part of the publication. For on-demand media services, the corrective statement must be published within eight days in a manner and extent similar to the disputed content, for other periodic publications, the corrective statement must appear in the next available issue, in a manner and extent similar to the disputed part of the publication, but not later than eight days after receiving the request. For linear media services (e.g., television or radio broadcasts), the corrective statement must be

broadcast within eight days of receiving the request, in a manner and at the same time of day as the original disputed content.

According to Section 342(1) of the Code of Civil Procedure, the publication of a correction—pursuant to the Press Freedom and Basic Rules of Media Content Act—may be requested in writing by the affected person or organization within thirty days from the date of publication of the disputed content. Under Section 342(2), the request for publication of a correction may be denied only if the claims presented in the request can be immediately refuted.

Pursuant to Section 343(1), if the media service provider, editorial office of the press product, or news agency fails to fulfil its obligation to publish the correction within the deadline, the requesting party may file a lawsuit against it. Under Section 343(3), such a lawsuit must be initiated within fifteen days from the last day of the publication obligation. If this deadline is missed, the requesting party may apply for reinstatement of the missed deadline (Sections 106–110). The entity referred to in Section 343(1) acts as a party to the proceedings even if it does not otherwise have legal capacity (Section 48).

The timing of the publication of the article, the submission of the request to the editorial office, and the filing of the lawsuit complied with the deadlines specified in Sections 342(1) and 343(3) of the Code of Civil Procedure. This was not disputed by the parties, and therefore, the court adjudicated the claim on its merits.

According to Position Statement No. 12 of the Supreme Court’s Civil Panel, in assessing a claim for a press correction, the media statement must be evaluated as a whole. The disputed statements and expressions must be interpreted based on their true content rather than their formal appearance. Related parts of the press statement must be assessed in context, taking into account socially accepted perceptions. Minor inaccuracies, irrelevant details, or insignificant errors that do not affect the person requesting the correction do not provide grounds for a correction. Furthermore, opinions, evaluations, criticisms, and participation in social, political, scientific, or artistic debates cannot, in themselves, serve as grounds for a press correction.

The court agreed with the defendants' defence in its evaluation of the article in question.

It is widely known that the debate surrounding the ... school generated significant public interest, particularly between a civil organization and the plaintiff. Many politicians, sociologists, and other experts voiced their opinions on the matter, and the Hungarian press extensively reported on the case. It is understandable that the judgment issued in this case and the plaintiff's response to it also attracted public attention.

The article in question, while published in a daily newspaper and its corresponding online news portal, was positioned among opinions and commentaries both by its nature and placement within the publication. According to the principles outlined in Position Statement No. 12, the disputed statements raised by the plaintiff must not be considered in isolation but assessed within the context of the entire article.

In the case at hand, the statements complained of by the plaintiff do indeed appear to be a statement of fact in themselves, according to mere grammatical rules, but, in the context of the whole text, it is clear that they wish to draw attention to the fact that, in the court's view, the plaintiff has allowed segregationist practices and, after the judgment, they will initiate a change in the law in order to prevent his previous practice from being accused of being unlawful. This

communication is clearly an expression of criticism of the plaintiff's position in the case and a statement of the writer's view of it. Its form is closer to that of a statement of fact because of the nature and style of the writing, but it is still a statement of the writer's opinion and not a statement of fact. In the present case, therefore, it is a statement of opinion by the defendants in the guise of a statement of fact.

The form of the opinion similar to the one in the lawsuit is considered permissible by the judicial practice, taking into account the previous decision of the Constitutional Court No. 36/1994, which is still applicable in accordance with the Fundamental Law. Accordingly:

"The Constitution does not explicitly distinguish between the communication of facts and the expression of opinions in defining freedom of expression. The fundamental purpose of freedom of expression is to ensure the possibility for individuals to shape the opinions of others and persuade others of their own views. Freedom of expression therefore generally encompasses the freedom of all types of communication, regardless of the method, value, moral quality, or, in most cases, the truthfulness of the communication.
Even the communication of a fact may be considered an opinion, as the circumstances of the communication itself can reflect an opinion. Thus, constitutional protection for freedom of expression is not limited solely to value judgments. However, when setting the limits of freedom of expression, it is appropriate to distinguish between value judgments and factual assertions. Value judgments, as an individual's personal opinions, are always covered by freedom of expression, regardless of whether they are valuable or worthless, true or false, or based on emotions or reasoning.
Freedom of expression, however, is not absolute for factual assertions. According to the Constitutional Court, freedom of expression does not extend to the dissemination of false facts that are defamatory if the individual making the statement was aware of its falsity (deliberate false communication) or if, based on the professional standards applicable to their occupation, they were expected to verify the truthfulness of the facts but failed to exercise the due diligence required by responsible exercise of this fundamental right. Freedom of expression includes the right to criticize, describe, express views, and evaluate, but constitutional protection cannot apply to the falsification of facts. Moreover, the exercise of freedom of expression is a constitutional right that must be exercised responsibly, carrying certain obligations for individuals who professionally participate in shaping public opinion, to avoid the dissemination of false facts."

The article in dispute complies with the above requirements. The type of falsification of facts alleged by the plaintiff is not evident. The plaintiff's claim that the defendants misrepresented the purpose and content of the legislative amendment is unfounded. The article merely communicates the defendants' interpretation of the purpose and impact of the legislative amendment, which falls within the scope of freedom of expression, even if such an interpretation may be incorrect.

Based on the above, the court did not find the plaintiff's claim to be substantiated and therefore dismissed it.

As the plaintiff has lost the case, under Section 78(1) of the Code of Civil Procedure, they are obligated to reimburse the defendants for the costs incurred in the lawsuit, which consist of the legal counsel's fees.

Regarding the unpaid court fees, the court ruled based on Section 14 of Decree No. 6/1986

(VI.26.) of the Ministry of Justice, taking into account the plaintiff's exemption from court fees.

..., 17 February 2015.

Ágota Kovaliczky sk.

judge

For the authenticity of the document:

official