

KRS: Hate Speech Regulation within the Context of Personality Rights; Restitution

While hate speech used to be sanctioned in Hungary under criminal law — the facts of the case being public provocation, then hate crime — the new Civil Code has brought about fundamental changes in the relevant legislation and the opportunities for the enforcement of claims, the expert of Kovács Réti Szegheő Attorneys at Law reminded origo. Dr. Mónika Kapetz emphasised: with effect from 15 March 2014, any member of a community will be allowed by civil law as well, subject to certain conditions, to take action for the protection of his personality rights and enforce any of the sanctions available for the violation of personality rights. The only exception is the laying of a claim to the financial advantage achieved.

The regulation of hate speech, which is a barrier to the freedom of expression, aims to sanction flagrant violations.

Pursuant to the law, any member of a community shall be entitled to enforce his personality rights in the event of any false and malicious statement made in public at large for being part of the Hungarian nation or of a national, ethnic, racial or religious group, which is recognized as an essential part of his personality, manifested in a conduct constituting a serious violation in an attempt to damage that community's reputation, by bringing action within a thirty-day preclusive period.

Although the law does not define the term “community”, it is to be emphasised that the meaning of community is much broader than national or religious minority, pointed out the expert of Kovács Réti Szegheő Attorneys at Law.

Limits to be defined by court practice

It can be concluded from the said provision that communities are expected to tolerate a certain level of criticism and members of the community may enforce claims for serious violations only.

The limits will be defined by court practice in the same way as “public at large”, a term known from criminal law, will be filled with sense by court judgements. The reason why limits are necessary is to avoid unnecessary harm to, and restriction of, the freedom of expression.

Major differences for restitution

Concerning the violation of personality rights, one must note restitution, a sanction introduced in place of non-material damages, pointed out dr. Mónika Kapetz. It is a major difference regarding restitution, that it will be sufficient for the person wishing to enforce a claim to prove the fact of violation with no need to prove any additional adverse effect, making it easier for him to enforce his claim.

However, it will still be the responsibility of the person seeking remedy to prove facts for the determination of the amount of the restitution. The restitution should offer appropriate compensation for the adverse effects caused by the violation of personality rights and should also serve as a sanction.



Accordingly, its amount will be determined by the court in consideration of the circumstances of the case, including the gravity and recurring nature of the violation.

The provisions on sanctions are applicable to violations committed after the entry into force of the Code. The old Civil Code will continue to apply to continuing violation even if the violation is stopped after the entry into force of the new Civil Code, concluded the expert of Kovács Réti Szegheő Attorneys at Law.