

Communication concerning the decision of the Curia of Hungary  
in criminal case number Bhar.I.1059/2021

Criminal proceedings were launched in a criminal case for the commission of the felony of endangering a minor and other criminal offences. The facts established by the final judgment are detailed hereunder.

The first and third accused lived in a common household with their son, the second accused, and his minor child, the victim, for whom the guardianship office ordered an adoption by the maternal grandparent, the first accused, and appointed the first accused as the victim's guardian. The child was in excellent health and physical condition. The minor victim was a pupil at the local primary school, he regularly got into fights with and abused his classmates, and he did not pay attention in class, thus disrupting the order of education and the learning process of his peers. As a punishment for the misbehaviour of the minor victim, the first and second accused treated him in an abusive, humiliating, rude and violent manner by constantly using obscene words and expressions and threatening to beat him. The first and second accused abused the victim because of his misbehaviour, pranks and other minor discipline issues by striking him in the face with the palm of their hand with small force in the yard of their property and in the street in front of their house, and the first accused struck him on the back with a thin stick with small force on several occasions. As a punishment, the first accused also refused to feed the minor victim or only gave him scraps of food two or three times a month.

As a separate factual element, the final judgment established that, on the day of the commission of the criminal offence, the first accused had an argument with the 12-year-old minor victim because of the escape of a dog and the regular complaints from the school. On their way home, the first accused threatened to beat the child on the street. Upon their return home, the minor victim wanted to go to a nearby fishing pond without the permission of the first accused. As a result of the above, the first, second and third accused began to argue with and shout loudly at the minor victim. The minor victim and the second accused then went out into the street in front of the house, and the second accused held the minor victim by his sweater and lifted him up to his head, then dropped him to the ground and kicked him several times on the back with little force. Subsequently, the first and third accused also went out into the street and the first accused hit the victim several times with a wooden stick in his hand with low to medium force all over his body.

The third accused then took a tool consisting of a wooden handle and a metal point in his hands and started waving it threateningly towards the abdomen and then, due to a rotating movement, the back of the minor victim, who was 2-2.5 metres away, in order to intimidate him. In the meantime, he shouted to the other accused persons by saying the followings: "Kill this faggot motherfucker!". The minor victim ran away from the scene in fear. The second accused ran after the minor victim, caught up with him at a street intersection and hit him several times with a wooden stick with low to medium force on the back and head. The minor victim was crying and screaming for help, while the first and third accused were in the street and were shouting obscene words at him. Hearing the incident, the minor victim's mother went out into the street from her own residence and told her former partner, the second accused, not to hit the victim or she would inform the

police. On hearing the mother's threatening words, the second accused abandoned his actions and went home. The defiantly anti-social and violent behaviour of the first, second and third accused was capable of causing panic and indignation in those who observed their conduct.

In its judgment, the High Court of Debrecen found the first, second and third accused guilty of the misdemeanour of battery, which they committed as co-perpetrators [section 164, subsections (1) and (2) of the Criminal Code], and the felony of public nuisance, which they also committed as co-perpetrators [section 339, subsection (1), subsection (2), points a) and d) of the Criminal Code], therefore the court imposed a cumulative fine of 100 daily units – the amount of one daily unit being 1 000,- HUF – on the first, second and third accused as recidivists.

Acting as a court of second instance to deal with the parties' appeals, the Regional Appellate Court of Debrecen reversed the judgment of the court of first instance. The appellate court also established the guilt of the first, second and third accused for the felony of endangering a minor [section 208, subsection (1) of the Criminal Code]. In addition, the appellate court changed the classification of the criminal offence of battery in respect of the first, second and third accused, and requalified their conduct as the felony of attempted battery [section 164, subsections (1) and (3) of the Criminal Code]. The criminal sanction imposed on the first accused was increased to 60 days' imprisonment, while the criminal sanctions imposed on the second and third accused were increased to 1 year 6 months' imprisonment and 3 years' exclusion from public affairs. The appellate court found that the second and third accused were recidivists and therefore they could not be released on parole from their custodial sentence.

Acting as a court of third instance to deal with the second-instance appeals of the first, second and third accused and their defence attorneys, the Curia of Hungary upheld the judgment of the Regional Appellate Court of Debrecen in respect of the first, second and third accused.

Budapest, 9 March 2022

Criminal Department of the Curia of Hungary