



S U M M A R Y

of the session of the National Judicial Council (OBH) of Hungary held on 2nd May 2018 with 11 members present.

*The session was also attended by
Mariann Vízkelety, State Secretary at the Ministry of Justice and
János Bánáti, President of the Hungarian Bar Association*

1. The President of National Judicial Council informs the attendees, that council members judge Zsolt Hornyák and judge Tünde Tímár, substitute members judge Enikő Szentgyörgyi-Bíró, judge Gyöngyi Tóth, judge Magdolna Varga, and judge Rita Pál **have resigned from the council**. Judge Szabolcs Sarkantyú substitute member has been promoted to regional Court, his membership has terminated by the law. The President took actions to invite the substitute members to the Council. Judge Katalin Csontos new council member is present at the session.

Tünde Handó, OBH President forwarded her stance in written according to which the National Judicial Council is inoperative due to the resignation of the administrative and labour court substitute member judge Tünde Tímár. Péter Darák, President of the Kúria states his legal opinion at the session as the Council is legitimate, and the representation of each court level shall be ensured by interim election of substitute members based on Article 99 of the Act 161 of 2011 on the organization and administration of Courts. János Bánáti, President of Hungarian Bar Association expresses his concerns on behalf of all Hungarian attorneys about the sudden resignation of numerous council members and substitutes.

The National Judicial Council unanimously decides that its operativity and quorum is legitimately assured, and calls the President of OBH to take the necessary steps for the interim election of new substitute members.

2. Council member judge Judit Fatalin reports on the inquiry of the OBH President's practise on declaring judicial and court executive applications unsuccessful. The National Judicial Council answers the **questions raised on 08/02/2018 by the judicial conference of the Regional Court of Appeal Győr** as follows:
 - I. The practice of OBH President carried out between 01/01/2017 and 05/02/2018 wherewith she failed to justify her decision of declaring application for court executive positions unsuccessful to the consultative judicial body is illegitimate. OBH calls OBH President to give written reasoning about her decisions each time also to the consultative judicial bodies.

- II. The practice of OBH President in 2016 and 2017 wherewith she redirected judges not due to ensure even distribution of caseload or to support their professional development, but for the purpose to perform administrative duties as acting court executive is illegitimate. OBT calls OBH President to act according to this.
- III. The practise of OBH President carried out in 2016 and 2017 wherewith she failed to appoint acting executives as soon as possible after second unsuccessful procedure, and she counted the one-year term of temporary mandate from the appointment is illegitimate. OBT calls OBH President to appoint acting executive after the second unsuccessful procedure without delay. Accordingly, the temporary mandate shall be counted from the appointment.

About the **question raised on 05/02/2018 by the judicial conference of the Metropolitan Court** regarding judicial and court executive applications declared unsuccessful between 01/01/2017 and 05/02/2018 the National Judicial Council gives the following opinion:

- I. The OBH President failed to justify some of her personnel decisions in spite of the legal and constitutional duties. It is inadequate if the written reasons to declare an application unsuccessful do not match the legal conditions of the Act on organization and administration of courts or do not meet the constitutional requirements stated in the decision of the Constitutional Court Nr. 13/2013. (VI.17.) AB.
- II. According to the inspection it can not be verified that obligation to inform the applicants and consultative judicial bodies has been fulfilled in all cases and some justifications were often delayed or non-formal.
- III. The practice of appointing court executives due to the lack of justification and due to the ill-founded grounding are not transparent.
- IV. For some applications it can not be verified that the cited work-logistical conditions occurred after the call for application or other circumstances indeed exist. Some judicial applications were recalled again after being declared unsuccessful due to the change of work-logistical conditions.

The National Judicial Council publishes the inquiry report on the internet and intranet site and submits the answers to the questioning judicial bodies.

3. Council member judge Csaba Vasvári announces the **report of the Committee on reviewing former OBT decisions and recommendations.**
 - I. The decision Nr. 2/2012 (III.24.) OBT on "Juhász Andor" award is amended: all proposals shall be forwarded to OBH with the opinions of the collegium and judicial council.

- II. Section III/3. of the decision Nr. 3/2012. (II.12.) OBT on the assessment of judicial applications with deviation from the rank is amended and partly repealed.
 - III. The decision Nr. 3/2015. (I.13.) OBT on competences regarding the Judicial Code of Ethics, decision Nr. 11/2015. (II.12.) OBT on procedural rules of developing ethical resolutions of the Judicial Code of Ethics and decision Nr. 5/2015. (I.13.) OBT on the Committee for Preparing Ethical Resolutions are repealed, because OBT does not have any legal competence regarding this issue. In this context all former ethical resolutions are also repealed.
 - IV. The decision Nr. 1/2013. (X.8.) OBT, recommendation for regional courts and regional courts of appeal on the recognition for judges and judicial staff members and the decision Nr. 1/2012. (X.15.) OBT, recommendation for judicial councils about the interpretation of the 7/2011. (III.4.) KIM decree about the detailed regulation of the assessment of judicial applications and scoring are repealed, because OBT doesn't have any legal competence regarding this issue.
4. The National Judicial Council discussed the proposal of Judge Tamás Matusik on the **lessons and experiences of the introduction of electronical communication**. The following consequences can be drawn for the future:
- before the introduction of such technical developments there shall be a test-period and transitional period where both digital and paper copies are forwarded and received;
 - the procedure of the investigative judges – due to the nature of the procedure – shall be exempted;
 - the preparation period shall be assessed according to the appropriate time for public procurements, IT developments, user training.

Therefore, the OBT invites OBH President to review the experiences of the electronic communication in criminal and misdemeanour procedures. OBT proposes OBH President to launch a petition to the exemption of the procedure of investigative judges and the delay of the mandatory use of electronic communication in criminal and misdemeanour cases.