

S U M M A R Y

of the session of the National Judicial Council of Hungary held on 16th May 2018 with 11 members present.

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

1.

Dr. Judit Ildikó Snellenperger, judge of the Eger District Court, new member is present at the session.

The President of the National Judicial Council informs the attendees that the President of the National Office for the Judiciary excused herself from today's meeting. She has also withdrawn her approval of re-nominating a judge as president of a particular district court. Despite repeated requests, **the President of the National Office for the Judiciary has not provided the Council with a report** on the inquiry of the presidents of the courts and the monitoring and comparison of judges' workload throughout the country.

Dr. Mariann Vízkelety informed the National Judicial Council that dr. László Trócsányi, the Minister of Justice was heard by the Committee. The minister stressed that „judicial independence is key to democracy”. His aim was to create an institutionally independent administrative court with the cooperation of the judiciary and key legal experts. Despite questions, the minister did not express his view over the opinion of the President of the National Office for the Judiciary on the potential lack of operability of the National Judicial Council. In his view the Ministry of Justice is not to interpret the relevant legislation, instead the judiciary and ultimately the Constitutional Court is in the position to settle any disputes between the President of the National Office for the Judiciary (NOJ) and the National Judicial Council (NJC).

2.

The **National Judicial Council requests that the President of the NOJ fulfils its legal obligations** and provides the NJC with propositions requested by the Council and responds to the Council's enquiries **with no further delay**. In case the President of the NOJ does not comply with its obligations under the law the NJC will consider the initiation of the procedure under Paragraph 74 of the Act on the organisation and administration of courts (impeachment procedure).

3.

The **NJC sets up a Committee with the task to prepare a proposition on the amendment of the Act on the organisation and administration of courts.** After collecting the opinion of the members the committee will prepare a proposition on the amendment of the legislation relating to the status of the NJC and its members. The committee should complete its task within 60 days. Head of Committee is dr. Viktor Vadász, members are: dr. Katalin Csontos and dr. Edit Hilbert.

4.

The NJC elects dr. Judit Ildikó Snellenperger as new member of its **Procedural Committee.**

5.

The NJC accepts and announces the reasoning of its resolution **No. 60/2018 (V.2.) OBT on the practice of the President of the NOJ regarding the annulment of the application of judges and judicial leaders.**

6.

The NJC provides the following announcement to judges:

To all Judges in Hungary

Dear Colleagues,

In the last couple of weeks the President of the National Office for the Judiciary expressed her view – mainly through the media – on the operation of the National Judicial Council. This view was based on false interpretation of the relevant legislation. The President of the National Office for the Judiciary cannot announce the operation of the National Judicial Council – its supervisory body – illegal or non-functional. Nor can she obstruct its operation. According to the Act on the organisation and administration of courts the National Judicial Council has 15 members, however, the Act does not require all 15 members in order for the NJC to operate. Nor does the Act require that all levels of courts must be represented in the NJC in order to operate or pass resolutions. The Act contains such regulations only in relation to the election of the members of the NJC when it stipulates that a certain number of judges must come from certain levels of courts and that there are 15 members and 14 reserve members.

Legislation in line with the interpretation of the President of the National Office for the Judiciary would not be viable, as in case the Curia did not have a President for any reason the NJC would not be able to operate. A non-operating body would not be able to give an opinion on the future President of the Curia, who could then not be elected.

If the number of members of the NJC is less than 15 and not all required levels of courts are represented by the members, according to Paragraph 92 of the Act, further reserve members must be elected only if the number of alternates falls below 5. The NJC cannot operate only if the number of members is below 10 (limit of quorum). As long as there are at least 5 alternates, no new alternates can be elected even in case some levels of courts are not represented by the members.

According to Paragraph 91 (1) the number of members cannot exceed 15 or the number set for each and every level of courts, however, the Act does not prohibit that the NJC operates with less than the maximum number of members. Other constitutional bodies operate similarly, e.g. the Hungarian Parliament will not operate illegally if a member of an electoral district is temporarily missing, even though in such case one constituency remains without the representative of that district even before the mid-term election held for the electoral district.

The NJC is an important body of the judiciary without which the central administration of the courts would not be able to operate lawfully. Without the operation of the NJC, applications for the position of judges or presidents of courts could not be processed, awards already granted by the NJC could not be handed over, judges could not get acquittal from work during their notice period, chief judges or leaders could not be elected for the third time and members of the disciplinary court could not be elected.

The acceptance of the view of the President of NOJ would mean that the operation of a constitutional body can be undermined easily by organising coordinated resignations among the members of the council. As a result, the central administration of the courts would remain without supervision. For this reason we consider the view of the President of the National Office for the Judiciary as irresponsible which does not consider the judges' interest.

We regret that – despite announcing the importance of dialogue – the President of the NOJ does not attend the Council's sessions which could be the proper venue for dialogue and cooperation.

The National Judicial Council operates legally under the terms of the Act on the organisation and administration of courts, the Councils holds its sessions according to its agenda to which the President of the National Office for the Judiciary will continue to be invited.