



## **Brief report on the Session of the National Judicial Council (OBH) held on 07/11/2018**

### **1. Letters of OBH President regarding the operation of the OBT**

János Bánáti, president of the Hungarian Bar Association expresses his concerns about the letter that the President of OBH wrote recently regarding OBT. In this letter she labelled OBT illegitimate once again, and stated that she will wait for the decision of a “competent body”. Members of the OBT and officials, present at the session with the consultation rights, have no information on any pending proceeding or legal debate about this issue.

President of OBH has also sent a letter to court presidents in which she states that she will not allow the payment orders on the costs of the operation of OBT, and she suggests the President of Kúria to finance the sessions, and court presidents to bear other costs of the OBT members. At this point the OBT draws her attention to Article 104 Paragraph (1) of the act 161 of 2011 on organization and administration of courts (Bsz): “Technical conditions of the operation of OBT must be provided by the OBH.” The budget of OBT is separate within the budget of OBH, the Council shall dispose on its own budget by itself.

President of OBH rejected OBT members to inspect files of the administration with the reference of the in-operativity of the Council. For this case, OBT warns the President of OBH to apply the legal regulation of Article 112 Paragraph (1) point a) of Bsz: “Members of the OBT have the right to inspect any files on the operation of OBH or OBT and request data or information from her.” Banning OBT members to apply these rights interferes with the Council’s constitutional duty stated in Article 25 Paragraph (5) of the Fundamental Law: “The National Judicial Council supervises the central administration of ordinary courts”

### **2. Electoral Assembly for substitute Council members**

Lajos Makai, president of the Hungarian Association of Judges (MABIE) presents a detailed report on the electoral assembly held on 09/10/2018. He confirmed the preliminary information about the breaches of law and other anomalies during the assembly: there was a seating order, there were anomalies about the polls, the assembly made decision for which it didn’t have any competence, however it failed to elect new members which was the single task of the assembly.

Several judges and judicial bodies stood up for the judicial self-governance and the rule of law, and expressed their opinion openly on the webpage of the Hungarian Association of Judges ([www.mabie.hu](http://www.mabie.hu)). It is highly appreciated by Council members on the session.

The National Judicial Council amends its Charter of organization and operation. Article 101 of Bszi. authorizes OBT to give a detailed regulation on the electoral rules. After the electoral assembly held on 09/10/2018 it became obvious that there is a growing need to reconstitute these rules to enforce legitimate and democratic elections for OBT substitute members.

- It should be avoided that judges choose the electors on a list where the candidates are in a “preference order.” Candidates' names should be in an alphabetical order.
- It should be avoided that the candidates proposed by the nomination committee only declare the acceptance (or refusal) of the nomination after the “open nomination” phase is over. However, it didn’t cause any problems in the past that the assembly decided on an open vote about the nominees, but in October this was used to prevent all volunteer applicants from becoming candidates.
- The secret ballot shall be carried out at a separate polling station to secure fair election without any interference. The fair nature of the poll shall be protected by an independent teller committee, not the chairman or the nomination committee who also vote and interested in the poll.
- The Charter regulates the timeframe of the procedure of ordinary electoral assembly, but these rules do not apply for the mid-term assembly of substitute member elections. It is unacceptable that the organization of the assembly took 6 months from OBT’s request for the mid-term election.

The National Judicial Council calls the chairman of electoral assembly to resummon the electors, so they can fulfil their duties. According to Article 100 Paragraph (1) of Bszi. “the poll shall continue until the necessary number of candidates received sufficient number of votes.” For this reason, according to the OBT’s standpoint, the mandate of electors is still pending.

### **3. The leeway of the judicial salary-raise**

With regard to the fact, that OBH President failed to organize the meeting of the Judicial Career Expert Committee, OBT invites the founding parties for a meeting to prepare a

joint proposal on the judicial salary-raise. This Committee was founded by OBH President, President of OBT, President of Hungarian Association of Judges, President of the Union of Judicial staff on 02/04/2015 for the purpose to discuss all conceptional and professional issues regarding the judicial career model and have continuous cooperation.

#### **4. The annual training plan for judges and judicial staff**

The President of OBH has published the draft of the annual training plan for judges and judicial staff. According to its competence regulated in Article 103 Paragraph (4) point a) of Bszi. the National Judicial Council proposes the following:

- It is not enough if the annual training plan highlights the strategical aims and investment plans of OBH, but it should also clearly specify the topics of the planned training courses for certain types of cases and specialized judges. Judges and courts made their proposals in advance, so there shall be no difficulties to specify these more precisely.
- We recommend to organize more professional trainings on national level at the Hungarian Academy of Justice according to previous practise. The local trainings are valuable to share the experiences on a regional level, but the trainings organized on national level also facilitate coherent and unified legal practise.
- We prefer if there would be more voluntary training courses. There is a main advantage of voluntary seminars: participants are more motivated, if they can chose the topics they want to hear about, while participants of mandatory quota-based trainings are usually less motivated. Nevertheless, there are certain mandatory trainings (e.g. on new code of law and important amendments) that are indisputably necessary for the judiciary.
- We suggest to reintroduce judicial skill-development trainings that were very popular among judges in the past.
- The National Judicial Council expresses the importance of the cooperation of legal professions in the training field, to provide opportunity for prosecutors, solicitors, public notaries to share their knowledge and experiences with judges in the framework of joint trainings. According to Article 171/A Paragraph (4) and (5) of Bszi. the President of OBH has the possibility to conclude an agreement with the Minister of Justice and the Chief Prosecutor on joint trainings.

#### **5. Other issues**

The deputy state secretary of the Minister of Justice has informed the National Judicial Council that the new legal proposals on the administrative courts that has been recently submitted to the Parliament.

The President of OBT has sent a letter to the President of OBH regarding the pre-opened mail (letters from the disciplinary court) in October. This was answered by Judge János Cserni, head of department, and confirmed that mail addressed to OBT was pre-opened 'by mistake' and he will take the necessary steps to avoid OBH staff members opening mail addressed to the OBT accidentally in the future.