

2018.OBH .XXIX.D.2.

INFORMATION

on the practice of the President of the National Office for the Judiciary in the course of the assessment of applications for court executive positions in 2018

(31 October 2018)

1. Regulatory Framework

1.1 Court executives

Pursuant to Sections 118 (1) and (1a) of Act CLXI of 2011 on the organisation and administration of courts of Hungary ('OACH'), court executives include:

- Presidents of regional courts of appeal, regional courts, administrative and labour courts as well as district courts,
- Vice President of the Curia, vice-presidents of the regional courts of appeal, regional courts, administrative and labour courts, as well as district courts,
- Secretary General of the Curia,
- Deputy Secretary General of the Curia,
- heads of divisions,
- deputy heads of divisions,
- heads of groups,
- deputy heads of groups,
- heads of chambers.

1.2 Powers to appoint court executives (Section 128 of the OACH)

On 31 December 2017, the authorised number of court executives totalled 753.

The **President of the Curia** appoints **38 court executives**:

- Secretary General of the Curia,
- the Deputy Secretary General of the Curia,
- the heads of divisions of the Curia,
- the deputy heads of divisions of the Curia,
- the heads of chambers of the Curia.

The **Presidents of the Regional Courts of Appeal** appoint **48 court executives**:

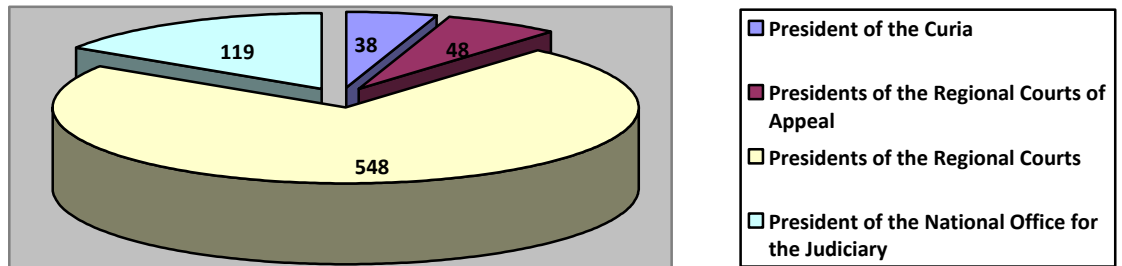
- the deputy heads of divisions of the regional courts of appeal
- the heads of chamber of the regional courts of appeal.

The **Presidents of the Regional Courts** appoint **548 court executives**:

- the deputy heads of divisions of the regional courts,
- the heads of chambers of the regional courts,
- the presidents and vice-presidents of the administrative and labour courts,
- the presidents and vice-presidents of the district courts,
- the heads and deputy heads of groups.

The **President of the National Office for the Judiciary** appoints **119 court executives**:

- the presidents, vice-presidents and heads of divisions of the regional courts of appeal,
- the presidents, vice-presidents and heads of divisions of the regional courts,
- the heads and deputy heads of administrative and labour regional colleges.



1.3 Bodies authorized to form opinion

The following shall comment on the applicants by way of secret ballot:
(Section 131 of the OACH)

- **the plenary meeting of the Curia having regard to:**
 - the Vice President of the Curia, and
 - heads of divisions of the Curia
- **the plenary session of judges in the case of:**
 - the president of a regional court of appeal or a regional court,
 - the vice-president of a regional court of appeal or a regional court, and
 - the head of a division of a regional court of appeal or a regional court
- **the division of the appropriate level and type in case of:**
 - heads of divisions, deputy heads of divisions and heads of chambers in the Curia, regional courts of appeal and regional courts,
 - heads of groups of regional courts, and
 - deputy heads of groups of regional courts
- **the administrative and labour regional college in the case of:**
 - the head of the administrative and labour regional college, and
 - deputy head of the administrative and labour regional college
- **the judges of the court affected in the case of:**
 - the president of the administrative and labour court,
 - the vice-president of the administrative and labour court,
 - the president of the district court, and
 - the vice-president of the district court

- **the appropriate group in the case of:**
 - the head of group of the administrative and labour court,
 - the deputy head of group of the administrative and labour court,
 - the head of group of the district court, and
 - the deputy head of group of the district court.

The assessment body shall present its recommendation by ranking applicants by the ratio of the votes received. (Section 132 (3) of the OACH)

1.4 Other rules applicable to the appointment of court executives

1.4.1 OACH

- **Section 127**
 - the office of a court executive may only be held by a judge tenured for an indefinite term,
 - the appointment of a court executive is for 6 years, except for the tenure of a head of chamber for an indefinite term
 - president and vice-president of a court may be appointed for the same court executive office for maximum two terms
- **Section 129**
 - if the person authorised to make the appointment is not the president of the court affected by the appointment, such person shall obtain the recommendation of the president of the court affected by the appointment
- **Section 130**
 - court executive positions must be filled via application
 - calls for applications are published by the person entitled to appoint the executive concerned
 - calls for applications must specify all terms and conditions necessary for being awarded the executive position
 - submitted applications must include a career plan (on the applicant's long-term plans and a schedule of implementation)
- **Section 132**
 - the person authorised to make the appointment shall assess the applications based on the application file, a personal interview with the applicant and the recommendation of the reviewing board
 - the person authorised to make the appointment is not bound by the recommendation of the assessment body, however, decisions departing from the recommendation must be justified
 - in the case of a decision in departure from the recommendation of the assessment body relating to the ranking, the President of the Curia and the President of the National Office for the Judiciary shall inform the National Judicial Council of the departure, which shall not affect the appointment of the court executive
 - If the President of the Curia or the President of the National Office for the Judiciary wishes to appoint an applicant not supported by the majority of

the assessment body, prior approval from the National Judicial Council shall be procured and the applicant may only be appointed with the agreement of the National Judicial Council

- **Section 133**
 - application proceedings are unsuccessful if the person authorised to make the appointment does not accept any of the applications; a new call must be published
 - if the application proceedings are unsuccessful, the position of the court executive may be filled by engagement for one year.
- **Section 77 (4)**
 - the President of the National Office for the Judiciary publishes the records of the interviews with the applicants for a court executive positions under his or her appointment authority on the central website of the National Office for the Judiciary

1.4.2 Order No 6/2015 (XI. 30.) of the National Office for the Judiciary on the rules regulating the administration of courts - Chapter III - point 4

- **Section 18**
 - the person authorised to make the appointment
 - takes into account the feasibility, schedule and novelty of the ideas detailed in the career plan, and the accord between the plan and the published call
 - assesses the applicant's professional competence, executive experience in the field of administration, experience as a judge, the outcome of the review the applicant's work as a judge, the applicant's participation in duties of central and local administration as well as in the life of the community
 - the record of the interview and, if the applicant grants permission, the career plan must be published on intranet
- **Section 19**
 - the detailed rules of stating an opinion
 - the reasons of a decision made in departure from the recommendation must be given in writing, and should be disclosed to the reviewing board, the applicants and the President of the National Office for the Judiciary
- **Section 20**
 - decisions by the person authorised to make the appointment shall be published within 30 days upon the interview
- **Section 22**
 - in case if the call is declared as unsuccessful, the reasons of the decision must be given in writing, and should be disclosed to the reviewing board, the applicants and the President of the National Office for the Judiciary

1.4.3 Authoritative decisions of the National Judicial Council

Decision No 8/2012 (III. 24.) of the National Judicial Council on the assessment criteria of a prior consent to the re-appointment of chairs of court and vice-chairs of court who already held the same court executive position twice

Decision No 10/2015 (II. 10.) of the National Judicial Council on the principles of the right of consent of the National Judicial Council exercised when appointing the court executives

1.4.4 The established practice

Where a call for applications falls under the appointment authority of the President of the National Office for the Judiciary, legally required publications and, with the applicant's consent, the career plan will also be posted on the central website in order to ensure the transparency of the application system.

2. Applications for court executive positions assessed by the presidents of regional courts of appeal and regional courts in 2017

2.1 Applications assessed by the presidents of the Regional Courts of Appeal

- Head of chamber appointments: 4

2.2 Applications assessed by the presidents of the Regional Courts

court executive position	appointment	unsuccessful	total assessments
deputy head of college	2	1	3
chair of administrative and labour court	3	-	3
vice-chair of administrative and labour court	1	3	4
chair of district court	23	8	31
vice-chair of district court	7	1	8
head of group	11	1	12
deputy head of group	2	-	2
head of chamber	9	-	9
total	58	14	72

The chairs of court inform the National Office for the Judiciary of the outcome of calls for applications by submitting a standard form.

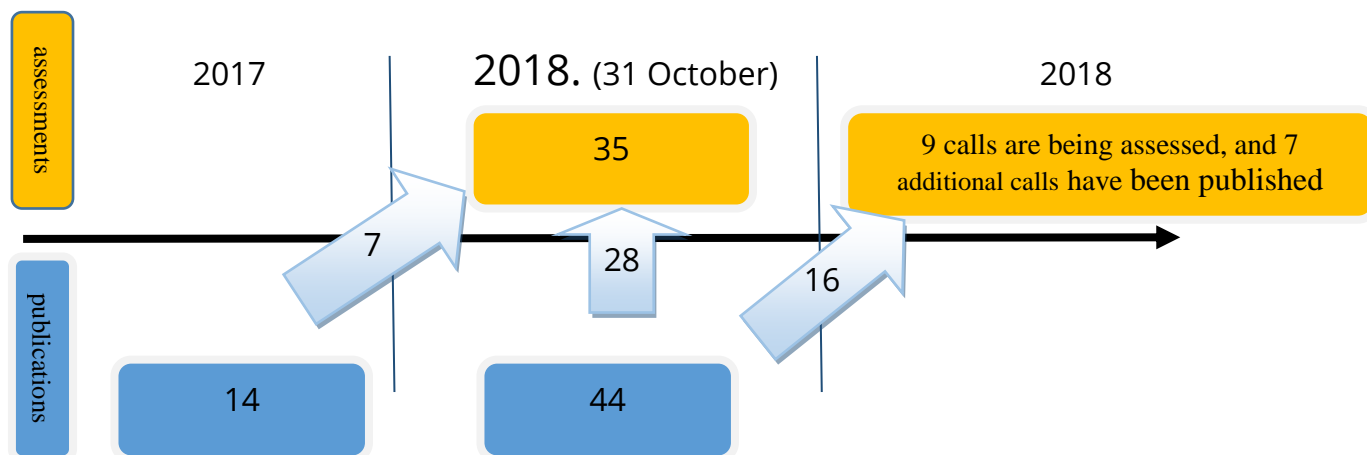
The control over the appointment practice of the Presidents of regional courts of appeal and regional courts is limited to the disclosure obligation arising upon departure from the ranking established by the reviewing board and also upon declaring a call unsuccessful, as detailed in point 1 above.

3. Calls for vacancies for court executives assessed by the President of the National Office for the Judiciary in by 31 October 2018 (in 35 cases)

The number of calls for applications for court executives assessed to date in 2018 was 35, including

- 7 calls published in 2017
- 28 calls published in 2018.

It should be noted that the number of the calls invited and the of those assessed is not identical with the number of vacancies for court executives since at some locations there were calls which had to be re-invited as a result of the fact that the earlier call had been declared as unsuccessful. It is possible to correctly enumerate the results only if each candidacy process is calculated separately.



3.1 Applications for court executives assessed as recommended by the reviewing board (in 8 cases)

Applications assessed as recommended by the assessment body culminating in an appointment

- applications for the **position of president**
 - President of the Debrecen Regional Court of Appeal
 - President of the Debrecen Regional Court
 - President of the Kaposvár Regional Court
- applications for the **position of vice-president**
 - Vice-President of the Kecskemét Regional Court
 - Vice-President of the Debrecen Regional Court of Appeal
- applications for the **position of head of division**
 - head of Northern Plain Administrative and Labour Regional College
 - head of Southern Plain Administrative and Labour Regional College
 - head of Mid-Danube Valley Administrative and Labour Regional College
 - head of the Penal Division of the Győr Regional Court of Appeal
 - head of the Penal Division of the Szombathely Regional Court
 - head of the Civil, Economic, Administrative and Labour Division of the Zalaegerszeg Regional Court

- head of the Civil, Economic, Administrative and Labour Division of the Szolnok Regional Court
- head of the Civil, Economic, Administrative and Labour Division of the Debrecen Regional Court
- head of the Penal Division of the Szolnok Regional Court.

3.2. Unsuccessful calls for applications for court executives (in 21 cases)

3.2.1. No applications were submitted (in 5 cases)

	Reason	Position specified in the call	Decision of the President of the NOJ
1-5.	No applications submitted	1. Budapest Environs Regional Court the position of vice-president (second publication)	{ Prior events: the court executive position became vacant: 14/11/2013; after repeated unsuccessful calls, engagement: 2013/7-8. BK. Deadline: 30/09/2013 -> Unsuccessful: 519/2013. (XII.20.) new invitation: 361/2014. (VII. 18.) -> Unsuccessful: 462/2014. (X.30.) Engagement: 1 September 2016. Invitation: 209.E/2017 (IV. 11.)-> Unsuccessful 465.E/2017 (VII.3.) Engagement: 1 September 2017 Second publication: 377.E/2018 (V.23.) Unsuccessful 525.E/2018. (VII.6.) Engagement: from 1 September 2018
		2. head of division of Mid-Transdanubian Administrative and Labour Regional College (second publication)	{ Prior events: the court executive position established: 01/01/2018 First publication: 892.E/2017 (XII.18.) -> unsuccessful 437.E/2018.(VI.19.)I.:3.2.3} Second publication: 438.E/2018 (VI.19.) -> Unsuccessful: 666.E/2018 (IX.21.) Engagement to carry out central administrative duties until the appointment of the head of college
		3. Head of the Civil-Administrative-Labour Division of the Budapest Environs Regional Court (second publication)	{ Prior events: the court executive position became vacant: 08/01/2018} First publication: 693.E/2017 (X.19.) -> Unsuccessful 95.E/2018 (I.30.) Second publication: 113.E/2018 (11.12.)-> Unsuccessful: 236.E/2018 (III.28.) Engagement: from 19 April 2018

	4. Administrative and Labour Regional College of the Budapest-Capital Regional Court, deputy head of division (first publication)	{ Prior events: court executive position became vacant: 30/04/2018} First publication: 376.E/2018 (V.23.) -> Unsuccessful: 523.E/2018 (VII.6.) Second publication: 524.E.E/2018 (VII.6.) Unsuccessful: 667.E/2018 (IX.21.)
	5. Budapest-Capital Regional Court Administrative and Labour Regional Division of the Budapest-Capital Regional Court, deputy head of college (second publication)	{ Prior events: the court executive position became vacant: 30/04/2018 First publication: 376.E/2018 (V.23.) Unsuccessful: 523.E/2018 (VII.6.) Invitation of a new call: 524.E/2018 (VII.6.)} Second publication: 524.E/2018 (VII.6.) Unsuccessful: 667.E/2018 (IX.21.)

3.2.2 Calls revoked (2)

	Reason	Position specified in the call	Decision of the President of the NOJ
1-2.	The candidates revoked their applications	1. President of the Szeged Regional Court of Appeal (first publication)	{ Prior events: the court executive position became vacant: 31/08/2018} First publication: 375.E/2018 (V.23.) -> Unsuccessful: 713.E/2018 (X.9.) Second publication: 714.E/2018 (X.9.) -> engagement from 1 October 2018
		2. President of the Balassagyarmat Regional Court	{ Prior events: the court executive position became vacant: 30/06/2018} First publication: 185.E/2018 (III.21.) -> Unsuccessful: 515.E/2018.(VII.3.) Second publication: 520.E/2018 (VII.6.) -H3.3.3

3.2.3 Lack of majority support in the review board – illegal practice of the National Judicial Council (in 9 cases)

Since May 2018, the number of members delegated from the court levels specified in the OACH to the National Judicial Council has been insufficient compare to that required for the lawful operation of the Council. The National Judicial Council has 4 members instead of 5 on regional court level, 5 members instead of 7 on district court level, whilst administrative and labour courts are not represented in the Council at all.

The OACH contains the following provisions concerning the number of members, its operation and the election of members and alternate members:

- Section 88 (3) – The NJC shall be composed of 15 members. Its members are the President of the Curia and 14 judges.

- Section 91 (1) – The meeting of delegates entitled to elect the members of the NJC shall elect – from among the delegates – one judge from the regional court of appeal, five judges from the regional courts, seven judges from the district courts and one judge from the administrative and labour courts to act as judge members of the NJC.

(2) Simultaneously upon electing the judge members of the NJC, the meeting of the delegates shall elect 14 judges as alternate members from among the delegates in accordance with paragraph (1), defining an order based on the number of votes in a manner which rules out a tied vote.

- Section 92 – Whenever the number of alternate members has fallen short of five and the undisturbed operation of the NJC or the observance of the upper limits defined in Sections 91 (1) cannot be guaranteed, new elections shall be held to replenish the number of alternate members to 14 persons.

Section 105 (3) – The NJC shall have a quorum if at least two-thirds of its members are in attendance.

Therefore the lawful operation of the NJC requires not only an appropriate number of members but those members should represent each judicial level in the number set out in the relevant cardinal Act. The legislator intended to guarantee that operability by prescribing that an appropriate number of alternate members must be elected from each level. However, in the light of Section 91 (2) of the OACH, an alternate member may not replace the leaving member on a universal basis but may only substitute the member delegated to the level concerned, in case that member leaves the NJC.

It is known that the NJC is of the opinion that operability and quorum are identical terms, and that less than 15 members are also sufficient for their lawful operation. The reasoning supporting that opinion, namely that - interpreting Section 48 (4) of Act CLI of 2011 on the Constitutional Court by analogy - as long as the quorum set out in Section 105 (3) of the OACH is present (two-thirds of the members attend the meeting), the operation of the Council is lawful, is unacceptable. This is because, on the one hand, constitutional judges have the same legal status, the legal status of the members of NJC is different since they represent different judicial levels. That is why the law prescribes that a member leaving the Council may only be replaced by an alternate member from the same court level that delegated the original member. On the other hand, if we accepted the proposed interpretation, then in the event of any further decrease in the number of members of NJC, a few members (or, ad absurdum, even a single member) may claim lawful operation if two-thirds of the current membership attend the meeting.

Clarifying the issue may be reserved for the competence of the Constitutional Court proceeding as set out in Section 38 of the Act on the Constitutional Court, but the President of the National Office for the Judiciary has no authorization to initiate such a procedure. The situation can perhaps be remedied by legislative amendment but it can also be resolved within the judicial organisation by co-opting members to the NJC to restore full numbership.

In light of the above, the NJC is prevented from exercising its powers concerning calls for applications for court executives either from the date referred to above. The involvement of the unlawfully operating National Judicial Council in making decisions on appointments

carries the risk that the decisions on appointments i.e. the appointment itself could be challenged at a later date. That is why these calls had to be declared as unsuccessful.

	Reason	Position specified in the call	Decision of the President of the NOJ
1-9.	Lack of majority support of assessment bodies; illegal practice of the National Judicial Council	1. president of the Balassagyarmat Regional Court (second publication)	{ Prior events: the court executive position became vacant: 30/06/2018 First publication: 185.E/2018 (III.21.) -> Unsuccessful 515.E/2018 (VII.3.)} Second publication: 520.E/2018 (VII.6.) -> Unsuccessful 760.E/2018 (X.31.) Engagement from 1 November 2018
		2. vice-president of the Zalaegerszeg Regional Court (first publication)	{ Prior events: the court executive position became vacant: 30/06/2018} First publication: 191.E/2018 (III.21.) -> Unsuccessful: 441.E/2018 (VI.19.)
		3. vice-president of the Zalaegerszeg Regional Court (second publication)	{ Prior events: the court executive position became vacant: 30/06/2018 First publication: 191.E/2018 (III.21.) -> Unsuccessful: 441.E/2018 (VI.19.)} Second publication: 442.E/2018 (VI.19.) -> Unsuccessful: 732.E/2018 (X.17.) Engagement from 18 October 2018
		4. Head of the Penal Division of the Győr Regional Court of Appeal (Third publication)	{ Prior events: the court executive position became vacant: 30/09/2016 First publication: 419/2016. (VII. 14.) -> Unsuccessful: 25.E/2017. (I.17.) Engagement from 1 March 2017 Second publication: 631/2016. (XI. 16.) -> Unsuccessful: 25.E/2017 (I.17.)} Third publication: 727.E/2017 (XI.7.) -> Unsuccessful: 358.E/2018 (V.22.) Engagement from 23 May 2018
		5. Head of the Mid-Transdanubian Administrative and Labour Regional College (first publication)	{ Prior events: the court executive position became vacant: 31/12/2017} First publication: 892.E/2018 (XII.18.) -> Unsuccessful: 437.E/2018.(VI.19.) Second publication: 438.E/2018 (VI.19.) -> Unsuccessful: 666.E/2018 (IX.21.)
		6. Head of the Economic Division of the Budapest Environs Regional Court (first publication)	{ Prior events: the court executive position became vacant: 30/06/2018} First publication: 186.E/2018 (III.21.) -> Unsuccessful: 529.E/2018 (VII.6.) Second publication: 530.E/2018 (VII.6.) -> Unsuccessful: 727.E/2018 (X.16.)

		publication)	
		7. Head of the Economic Division of the Budapest Environs Regional Court (second publication)	<p>{Prior events: the court executive position became vacant: 30/06/2018 First publication: 186.E/2018 (III.21.) Unsuccessful: 529.E/2018 (VII.6.) Second publication: 530.E/2018 (VII.6.) Unsuccessful: 727.E/2018 (X.16.)</p>
		8. Head of the Penal Division of the Szolnok Regional Court (first publication)	<p>{Prior events: the court executive position became vacant: 30/06/2018} First publication: 189.E/2018 (III.21.) -> Unsuccessful: 527.E/2018.(VII.6.) Second publication: 528.E/2018 (VII.6.) Date of appointment as a court executive: 1 November 2018</p>
		9. head of the Civil, Economic, Administrative and Labour Division of the Zalaegerszeg Regional Court (first publication)	<p>{Prior events: the court executive position became vacant: 30/06/2018} First publication: 192.E/2018 (III.21.) -> Unsuccessful: 439.E/2018.(VI.19.) Second publication: 440.E/2018 (VI.19.) Date of appointment as a court executive: 18 October 2018</p>

3.2.4 Unsuccessful calls due to other reasons (in 5 cases)

	Reason	Position specified in the call	Decision of the President of the NOJ
1-5.	Unsuccessful calls due to other reasons	1. President of the Budapest-Capital Regional Court (first publication)	<p>{Prior events: the court executive position became vacant: 04/01/2018} First publication: 692.E/2017 (X.19.) Unsuccessful: 2.E/2018 (I.3.) Essence of the statement of reasons: The applicant, who had been the chair of the regional court for 6 years, did not develop the appropriate methods of the efficient utilization of human and physical resources. The growing challenges in the management of the Budapest-Capital Regional Court call for a turning point. Second publication: 4.E/2018 (I.3.) Unsuccessful: 384.E/2018 (V.28.) Engagement: from 29 May 2018</p>



		2. President of the Budapest-Capital Regional Court (second publication)	<p>{Prior events: the court executive position became vacant: 04/01/2018 First publication: 692.E/2017 (X.19.) Unsuccessful: 2.E/2018 (I.3.)}</p> <p>Second publication: 4.E/2018 (I.3.) Unsuccessful: 384.E/2018 (V.28.) Essence of the statement of reasons: The challenges for the courts call for a turning point in the management of the Budapest-Capital Regional Court, too. The application submitted provided no guarantee for the better and smoother operation of the Budapest-Capital Regional Court in the future. Engagement: from 29 May 2018</p>
		3. President of the Pécs Regional Court of Appeal (first publication)	<p>{Prior events: the court executive position became vacant: 14/07/2018}</p> <p>First publication: 374.E/2018 (V.23.) Unsuccessful: 632.E/2018 (IX.4.) Essence of the statement of reasons: By reason of reaching the upper age limit, the candidate will not be able to serve throughout the entire presidential term. Invitation of a new call: 633.E/2018 (IX.4.)</p>
		4. Head of the Civil, Administrative and Labour Division of the Budapest Environs Regional Court (first publication)	<p>{Prior events: the court executive position became vacant: 08/01/2018}</p> <p>First publication: 693.E/2017 (X.19.) Unsuccessful: 95.E/2018 (I.30.) Essence of the statement of reasons: The content of the application file and the statements made at the hearing were not convincing enough to guarantee the fulfilment of all tasks described in the call. Second publication: 113.E/2018 (II.12.) -> Unsuccessful: 236.E/2018 (III.28.) I.:3.2.1. Engagement: from 19 April 2018</p>
		5. Head of the Civil Division of the Budapest-Capital Regional Court of Appeal (first publication)	<p>{Prior events: the court executive position became vacant: 31/05/2018}</p> <p>First publication: 114.E/2018 (II.12.) Unsuccessful: 611 .E/2018. (VIII.28.) Essence of the statement of reasons: On the basis of the application, the smooth and constructive cooperation of the professional management and the administration did not seem warranted which is, however, indispensable for a Regional Court of Appeal having a priority role of professional leadership. Invitation of a new call: 645.E/2018 (IX.18.)</p>

The President of the National Office for the Judiciary will provide detailed information to the candidate orally about the reasons of declaring the call as unsuccessful due to other reasons.

After this, both the candidate and the chair concerned and, through the chair, the opinion-giving bodies will be informed in writing. When doing so, the primary aim is to bear in mind not only the objectivity of the information but also the candidate's privacy.

4. Summary

The ratio of calls that had to be declared unsuccessful due to the lack of applications was also significant this year, indicating that the higher prestige and the additional remuneration are insufficient as factors of motivation that could compensate for the higher burdens associated with the professional and administrative duties. In view of all this, the President of the NOJ attaches importance to providing central administrative support for the work of court executives. The Executive Program for Sustainable Development, continuous training courses for court executives of all levels and the new system supporting the assessment of court executives were the means to reach that end. Moreover, the President of the NOJ also gives high priority to settling the issue of salary adjustments for executives.

Judges submitting to the assessment associated with applications for a vacancy deserve special recognition, and thanks are due to all court executives coordinating and directing the work of fellow judges in the interest of the court organisation.