

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 2017**

**(27 March 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**:

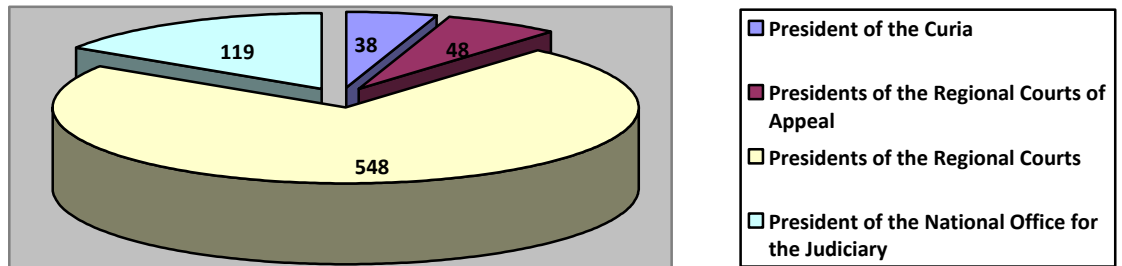
- the deputy heads of divisions of the regional courts of appeal
- the heads of chamber of the regional courts of appeal.

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

<b>court executive position</b>	<b>appointment</b>	<b>unsuccessful</b>	<b>total assessments</b>
deputy head of division	4	-	4
president of administrative and labour court	4	-	4
vice-president of administrative and labour court	1	-	1
president of district court	12	1	13
vice-president of district court	11	-	11
head of group	21	2	23
deputy head of group	11	-	11
head of chamber	14	1	15
<b>total</b>	<b>78</b>	<b>4</b>	<b>82</b>

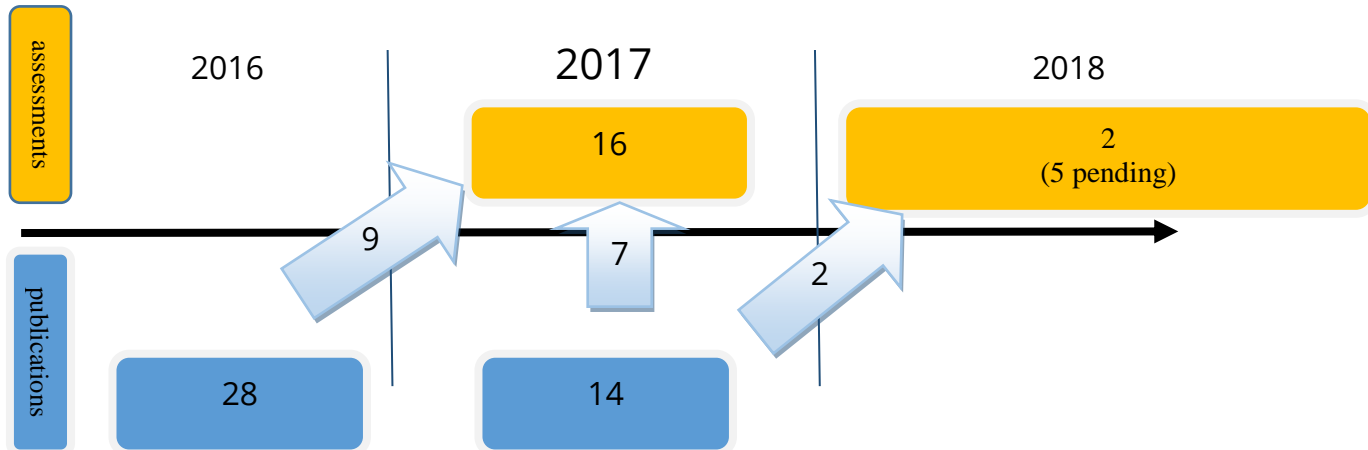
The presidents of courts inform the National Office for the Judiciary of the outcome of calls for applications by submitting a standard form.

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 assessment body 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 2017 (in 16 cases)

The number of calls for applications for court executives assessed in 2017 was 16, including

- 9 calls published in 2016
- 7 calls published in 2017.



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

Applications assessed as recommended by the assessment body

- applications for the **position of a president**
  - Vice-President of the Budapest-Capital Regional Court of Appeal
  - Vice-President of the Miskolc Regional Court
- applications for the **position of head of division**
  - head of the Penal Division of the Miskolc Regional Court
  - head of the Penal Division of the Budapest-Capital Regional Court of Appeal
  - head of the Civil, Economic, Administrative and Labour Division of the Eger Regional Court
  - head of the Civil, Economic, Administrative and Labour Division of the Miskolc Regional Court
  - head of the Penal Division of the Szeged Regional Court
  - head of the Penal Division of the Szekszárd Regional Court.
  -

#### 3.2 Applications assessed with the consent of the National Judicial Council (in 0 cases)

In 2017 there was no proposal submitted by the National Judicial Council in support of appointing applicants not supported by the majority of the plenary conference of judges.

### 3.3. Unsuccessful calls for applications for court executives (in 8 cases)

#### 3.3.1. No applications were submitted (in 5 cases)

	Reason	Position specified in the call	Decision of the President of the National Office for the Judiciary
1-5	No application submitted	Vice-President of the Győr Regional Court of Appeal (second publication)	<b>Prior events:</b> Court executive position had become vacant: 30/09/2016 First Publication: 420/2016. (VII.14.) - Unsuccessful 634/2016 (XI.16.) Second publication: 635/2016. (XI.16.) - Unsuccessful 24.E/2017 (I.17.) Filled by engagement from 1 December 2017
		Head of the Penal Division of the Győr Regional Court of Appeal (second publication)	<b>Prior events:</b> Court executive position had become vacant: 01/07/2016 First publication: 424/2016. (VII.18.) - Unsuccessful 632/2016 (XI.16.) Second publication: 633/2016. (XI.16.) - Unsuccessful 23.E/2017 (I.17.) Filled by engagement from 1 July 2017
		Head of Civil Division of the Győr Regional Court of Appeal (second publication)	<b>Prior events:</b> Court executive position had become vacant 30/09/2016 First publication: 419/2016. (VII.14.) - Unsuccessful 630/2016 (XI.16.) Second publication: 631/2016. (XI.16.) - Unsuccessful 25.E/2017 (I.17.) Filled by engagement from 1 March 2017
		Penal Division of the Budapest-Capital Regional Court head of college (first publication)	<b>Prior events:</b> Court executive position had become vacant: 31/12/2016} First publication: 746/2016. (XII.20.) -> Unsuccessful 82.E/2017 (II.17.) Publication of a new call: 83.E/2017 (II.17.)
		Head of the Penal Division of the Budapest Environs Regional Court (second publication)	<b>Prior events:</b> Court executive position had become vacant: 31/12/016 First publication: 750/2016. (XII.20.) -> Unsuccessful 217.E/2017 (IV.18.) Second publication: 219.E/2017 (IV.18.) -> Unsuccessful 321.E/2017 (V.19.) Filled by engagement from 10 January 2018

**3.3.2. Lack of majority support of opinion-giving bodies (in 2 cases)**

	<b>Reason</b>	<b>Position specified in the call</b>	<b>Decision of the President of the National Office for the Judiciary</b>
<b>1-2</b>	Not supported by the majority of the assessment body	Vice-President of the Budapest Environs Regional Court	<b>Prior events:</b> Court executive position had become vacant: 14/11/2013 2013/7-8. BK. Deadline: 30/09/2013 -> Unsuccessful: 519/2013. (XII.20.) Republished: 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.) New engagement: 1 September 2017
		Head of the Penal Division of the Budapest Environs Regional Court (first publication)	<b>Prior events:</b> Court executive position had become vacant: 31/12/2016} First publication: 750/2016. (XII.20.) -> Unsuccessful 217.E/2017 (IV.18.) Publication of a new call: 219.E/2017 (IV.19.)

**3.3.3 Unsuccessful call based on discretion (in 1 case)**

	<b>Reason</b>	<b>Position specified in the call</b>	<b>Decision of the President of the National Office for the Judiciary</b>
<b>1</b>	Call declared unsuccessful discretionally	Head of the Penal Division of the Budapest-Capital Regional Court (second invitation)	<b>{Prior events:</b> Court executive position had become vacant: 31/12/016 First publication: 746/2016. (XII.20.) -> Unsuccessful 82.E/2017 (II.17.)} Second publication: 83.E/2017 (II.17.) -> Declared unsuccessful 417.E/2017 (VI.21.) Reason: a single application was received for the call, but as the appointment of the chair of the court was to expire soon, appointing a head of college did not seem reasonable : “[...] as regards the professional control of the regional court with the greatest number of employees, it is crucial to give effect also to the ideas of the chief executive of administration, which is only possible if a head of college is appointed after appointing the chair of the court.” Engagement: as of 22 June 2017

The President of the National Office for the Judiciary will provide detailed information to the applicant orally about the reasons of declaring the call as unsuccessful upon discretion. Next, the applicant and the chair concerned and, through the chair, the reviewing boards are



informed in writing. When doing so, the primary aim is to bear in mind both the need to be objective and the applicant's personality rights.

#### **4. Summary**

This year, the ratio of calls that had to be declared unsuccessful due to the lack of applications is outstanding, 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 National Office for the Judiciary attaches special 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. In addition, the Career Development Board for Judges also deals with 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.