

**2018.OBH.XXIX.D.5.**

## **INFORMATION**

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

**(20 February 2019)**

The President of the National Office for the Judiciary (NOJ) shall make her report this year as well on her practice regarding assessment of applications invited for judicial positions in the previous year according to Section 103 paragraph 3)f of Act CLXI of 2011 on the Organization and Administration of Courts.

Considering the outstanding interest of the National Judicial Council in the interim period, the NOJ published an interim report on applications for judge posts assessed until 31 October 2018.

Simultaneously, five court presidents, called upon by the President of NOJ, examined the documents of applications of 16 vacancies for judicial management positions where the calls for applications was considered inconclusive, and published a report on 5 December 2018, which found that the decision-making process regarding the reasons of inconclusivity, the respecting of the deadline, the fulfillment of the written and oral disclosure requirement and enurement of the leadership tasks was lawful.

### **1. Regulatory Framework**

#### **1.1 Court leaders**

Pursuant to Sections 118 (1) and (1a) of Act CLXI of 2011 on the organisation and administration of courts of Hungary ('OACH'), court leaders 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 leaders (Section 128 of the OACH)**

On 31 December 2018, the authorised number of court leaders totalled 761.

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

- 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 **49 court leaders**:

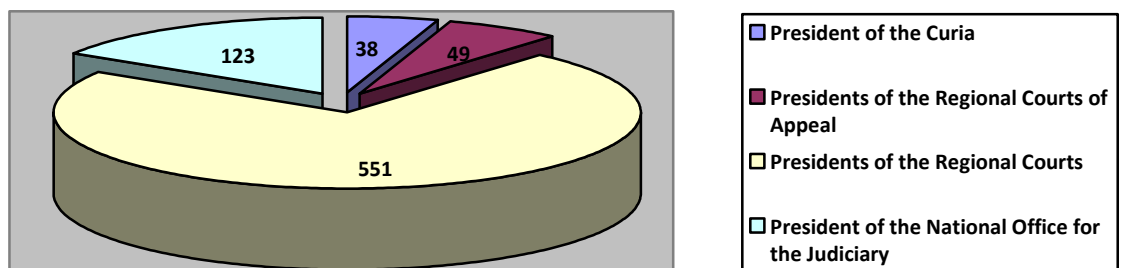
- the deputy heads of divisions of the regional courts of appeal
- the heads of chamber of the regional courts of appeal.

The **Presidents of the Regional Courts** appoint **551 court leaders**:

- 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 **123 court leaders**:

- 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 leaders

### 1.4.1 OACH

- **Section 127**
  - the office of a court leader may only be held by a judge tenured for an indefinite term,
  - the appointment of a court leader 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 leader 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 leader positions must be filled via application
  - calls for applications are published by the person entitled to appoint the leader concerned
  - calls for applications must specify all terms and conditions necessary for being awarded the leader 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 leader
  - 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 leader 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 leader 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, leader 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 leader 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 leaders

#### 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. Application for court leader positions assessed by the presidents of regional courts of appeal and regional courts until 31 December 2018

### 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 leader position</b>	<b>appointment</b>	<b>unsuccessful</b>	<b>total assessments</b>
deputy head of college	2	1	3
chair of administrative and labour court	3	1	4
vice-chair of administrative and labour court	1	3	4
chair of district court	26	8	34

vice-chair of district court	<b>10</b>	<b>1</b>	<b>11</b>
head of group	<b>14</b>	<b>2</b>	<b>16</b>
deputy head of group	<b>2</b>	<b>-</b>	<b>2</b>
head of chamber	<b>11</b>	<b>4</b>	<b>15</b>
<b>total</b>	<b>69</b>	<b>20</b>	<b>89</b>

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

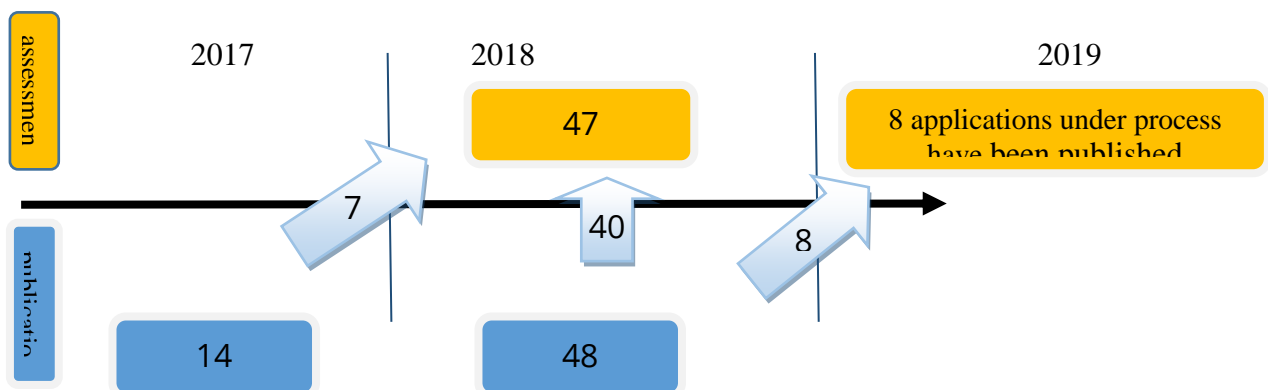
The control over the appointment practice of the Presidents of regional courts of appeal and regional courts is limited to the disclosure obligation arising upon departure from the ranking established by the reviewing board and also upon declaring a call unsuccessful, as detailed in point 1 above.

### 3. Court leader applications decided by the President of NOJ from 1 January 2018 to 31 December 2018 (47)

The number of the decided court leader applications in 2018 until 31 December 2018 was 47 from which

- 7 calls published in 2017
- 40 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 leaders 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 leaders assessed as recommended by the reviewing board (in 21 cases)

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

- applications for the **position of president**

- President of the Budapest Environs Regional Court (824.E/2018. (XII.5.) OBHE resolution)
  - President of the Debrecen Regional Court of Appeal (436.E/2018. (VI.18.) OBHE resolution)
  - President of the Debrecen Regional Court (495.E/2018. (VI.26.) OBHE resolution)
  - President of the Kaposvár Regional Court (497.E/2018. (VI.18.) OBHE resolution)
  - President of the Veszprémi Regional Court (798.E/2018. (XI.21.) OBHE resolution)
- applications for the **position of vice-president**
    - Vice-President of the Kecskemét Regional Court (498.E/2018. (VI.18.) OBHE resolution)
    - Vice-President of the Debrecen Regional Court of Appeal (711.E/2018. (X.21.) OBHE resolution)
- applications for the **position of head of division**
    - head of Northern Plain Administrative and Labour Regional College (434.E/2018. (VI.18.) OBHE resolution)
    - head of Southern Plain Administrative and Labour Regional College (433.E/2018. (VI.18.) OBHE resolution)
    - head of Mid-Danube Valley Administrative and Labour Regional College (435.E/2018. (VI.18.) OBHE resolution)
    - head of the Penal Division of the Győr Regional Court of Appeal (356.E/2018. (V. 22.) OBHE resolution)
    - head of the Penal Division of the Szombathely Regional Court (728.E/2018. (X. 17.) OBHE resolution)
    - head of the Civil, Economic, Administrative and Labour Division of the Zalaegerszeg Regional Court (731.E/2017. (X. 17.) OBHE resolution)
    - head of the Civil, Economic, Administrative and Labour Division of the Szolnok Regional Court (526.E/2018. (VII. 6.) OBHE resolution)
    - head of the Civil, Economic, Administrative and Labour Division of the Debrecen Regional Court (729.E/2017. (X. 17.) OBHE resolution)
    - head of the Penal Division of the Szolnok Regional Court (757.E/2018. (X. 29.) OBHE resolution)
    - head of the Penal Division of the Kaposvár Regional Court (842.E/2018. (XII. 12.) OBHE resolution)
    - head of the Civil, Economic, Administrative and Labour Division of the Kaposvár Regional Court (843.E/2018. (XII. 12.) OBHE resolution)
    - head of the Penal Division of the Szeged Regional Court (789.E/2018. (XI. 20.) OBHE resolution)
    - head of the Penal Division of the Szeged Regional Court of Appeal (808.E/2018. (XI. 26.) OBHE resolution)
    - head of the Penal Division of Budapest Environs Regional Court (841.E/2018. (XII. 11.) OBHE resolution).

### 3.2. Unsuccessful calls for applications for court leaders (in 26 cases)

According to the law the entity that has appointing authority can decide on the application in two ways: appointing one of the applicants or considering the selection process as inconclusive. The law also provides that the selection process is inconclusive if the entity having appointing authority does not accept any of the applications.

Mutatis mutandis, the application cannot be successful if there are no applications, or if all applicants withdraw their applications.

The selection process shall be considered inconclusive if legality of the selection process cannot be fully ensured and, therefore, the appointment may be challenged later.

The law stipulates that the controlling of the specific unit shall be organized even if an application is declared unsuccessful, that is if no appointment is made.

Following the inconclusivity of the repeated selection process, the entity having appointing authority can fill in the court leader position by assignment for one year. If the president or vice-president of the court are simultaneously prevented from fulfilling their tasks for over two month – including the case when the position is not occupied – the President of NOJ may assign one of the court leaders of the particular court for a period of six months. Moreover, presidents of regional courts of appeal and regional courts may also assign certain leadership tasks to court leaders.

The rights and obligations of assigned leaders are the same as for those who are appointed for six years.

26 selection processes for court leader positions were declared unsuccessful in 2018, however, these affect only 16 court leader positions altogether, because the selection processes for the same positions have been considered inconclusive more than once.

#### 3.2.1. No applications were submitted (in 8 cases)

If there is no application for the vacancy call, mutatis mutandis, the selection process cannot be considered successful. In this case – in lack of submissions – opinion council are not summoned. After the deadline for application expires, the court shall get information on the lack of applications.

There were no applications for the following court leader positions:

1-8	1. Budapest Environs Regional Court the position of vice-president (second publication)	precedent	The court leader 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.)
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		Engagement: 1 September 2017
	application	<b>Second publication:</b> 377.E/2018 (V.23.) Unsuccessful 525.E/2018. (VII.6.)
	justification	in the resolution: there were no applicants
	information	In letter: for the president
	fulfillment leadership tasks	<b>dr. Tamás Gerber</b> Mandate: 1 September 2018 to 31 August 2019 (one year) 602.E/2018.(VIII.21.) OBHE resolution
2. head of division of Mid-Transdanubian Administrative and Labour Regional College (second publication)	precedent	The court leader position established: 01/01/2018 First publication: 892.E/2017 (XII.18.) -> unsuccessful 437.E/2018.(VI.19.)L.:3.2.3}
	application	<b>Second publication:</b> 438.E/2018 (VI.19.) -> Unsuccessful: 666.E/2018 (IX.21.)
	justification	in the resolution: there were no applicants
	information	In letter: for the president
	fulfillment leadership tasks	<b>dr. Dóra Solymos</b> authorization with central administrative tasks from 15 September 2017
3. Head of the Civil-Administrative-Labour Division of the Budapest Environs Regional Court (second publication)	precedent	The court leader position became vacant: 08/01/2018} First publication: 693.E/2017 (X.19.) -> Unsuccessful 95.E/2018 (I.30.)
	application	<b>Second publication:</b> 113.E/2018 (11.12.)-> Unsuccessful: 236.E/2018 (III.28.)
	justification	in the resolution: there were no applicants
	information	In letter: for the president
	fulfillment leadership tasks	<b>Tünde dr. Fehérné dr. Gaál</b> Mandate: 19 April 2018 to 18 April 2019 (one year) 259.E/2018. (IV. 13.) OBHE resolution



4. Administrative and Labour Regional College of the Budapest-Capital Regional Court, deputy head of division (first publication)	precedent	Court leader position became vacant: 30/04/2018
	application	<b>First publication:</b> 376.E/2018 (V.23.) -> Unsuccessful: 523.E/2018 (VII.6.)
	justification	in resolution: there were no applicants
	information	In letter: for the president
	fulfillment administrative tasks	Fulfillment of the task is ensured by the head of college and the head of group working in the division.
5. Budapest-Capital Regional Court	precedent	The court leader 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.)
	Administrative and Labour Regional Division of the Budapest-Capital Regional Court, deputy head of college (second publication)	<b>Second publication:</b> 524.E/2018 (VII.6.) Unsuccessful: 667.E/2018 (IX.21.)
	justification	in resolution: there were no applicants
	information	In letter: for the president
	fulfillment of leadership tasks	Fulfillment of the task is ensured by the head of college and the head of group working in the division.
6. Budapest-Capital Regional Court of Appeal, head of college (second publication)	precedent	court leader position has fallen vacant: 31 May 2018. First publication: 114.E/2018. (II.12.) → inconclusive: 611.E/2018. (VIII.28.)
	application	<b>Second publication:</b> 645.E/2018. (IX.18.) → inconclusive: 765.E/2018. (XI.6.)
	justification	in resolution: there were no applicants
	information	In letter: for the president
	fulfillment of management tasks	By dr. Csaba Vuleta deputy head of college from 1 June 2018 dr. Marianna Dzsula Mandate: 7 January 2019 to 6 January 2020 (one year) 838.E/2018. (XII. 10.) OBHE resolution
7. Head of the Civil-Administrative-Labour College of the Győr Regional Court (first	precedent	Court leader position has fallen vacant: 31 January 2019
	application	<b>First publication:</b> 749.E/2018. (X.19) →



publication)		inconclusive: 802.E/2018. (XI.21.)
	justification	in resolution: there were no applicants
	information	In letter: for the president
	fulfillment of leadership tasks	appointment of <b>dr. Marianne Lotz until 31 January 2019</b>
<b>8. Head of the Civil-Administrative-Labour College of the Győr Regional Court (second publication)</b>	precedent	Court leader position has fallen vacant: 31 January 2019 2019.01.31. First publication: 749.E/2018. (X.19) → inconclusive: 802.E/2018. (XI.21.)
	application	<b>Second publication:</b> 803.E/2018. (XI.21.) → inconclusive: 877.E/2018. (XII.19)
	justification	in resolution: there were no applicants
	information	In letter: for the president
	fulfillment of leadership tasks	Authorization for administrative tasks by the president of regional court: 1 February 2019 to 15 February 2019  <b>dr. Marianne Lotz</b> Mandate: 15 February 2019 to 14 February 2020 (one year) 75.E/2019. (II. 4.) OBHE resolution

### 3.2.2 Calls revoked (3)

Sometimes it occurs that an applicant withdraws their application because of circumstances arisen after the submission of the application. If there were no other applicants in the selection process, the call shall be considered unsuccessful in lack of submissions.

<b>1-3.</b>	<b>1. President of the Szeged Regional Court of Appeal (first publication)</b>	precedent	The court leader position became vacant: 31/08/2018}
		application	<b>First publication:</b> 375.E/2018 (V.23.) -> unsuccessful: 713.E/2018 (X.9.) <b>Second publication:</b> 714.E/2018 (X.9.) -> engagement from 1 October 2018
		justification	in information letter: the applicant withdrew his or her application
		information	In letter: leader, for the opinion council
		fulfillment of leadership tasks	by <b>dr. Attila Hámori</b> vice-president 1. September 2018 – 30 September 2018 <b>dr. István Kemenes</b> Mandate: 1 October 2018 to 31 March

			2019 (six months) 695.E/2018. (IX. 26.) OBHE resolution
2. President of the Balassagyarmat Regional Court	precedent		The court leader position became vacant: 30/06/2018
	application		<b>First publication:</b> 185.E/2018 (III.21.) -> Unsuccessful: 515.E/2018.(VII.3.) <b>Second publication:</b> 520.E/2018 (VII.6.) - H3.3.3
	justification		In information letter: he applicant withdrew his or her application
	information		In letter: leader, for the opinion council
	fulfillment of leadership tasks		by <b>dr. Zsolt Fekete</b> vice president 1 July 2018 to 31 October 2018
3. Budapest Capital Regional Court, head of Penal College (second publication)	precedent		First publication: 746/2016. (XII. 20.) → inconclusive: 82.E/2017. (II.17.) Second application: 83.E/2017. (II. 17.) → inconclusive: 417.E/2017. (VI. 21.)
	application		<b>Second publication:</b> 302.E/2018. (IV. 24.) → inconclusive: 864.E/2018. (XII. 18.)
	justification		The applicant withdrew his or her application
	information		In letter: president, for the opinion council
	fulfillment of leadership tasks		dr. Judit Szabó Mandate: 5 February 2019 to 4 February 2020 (one year) 28.E/2019. (I.22) OBHE resolution

### 3.2.3 Lack of majority support in the review board – illegal practice of the National Judicial Council (in 10 cases)

If the applicant does not enjoy the support of the majority of opinion councils, they can be appointed only in case the National Judicial Council (NJC) agrees. The agreement of the NJC is also required if the President of NOJ would like to fill the job vacancy with the second or the third applicant. The NJC should decide on the issue of exemption from incompatibility emerging in connection with the appointment of a leader.

The NJC may only exercise these rights if it operates lawfully.

1-10.	1. president of the Balassagyarmat Regional Court (second publication)	precedent	The court leader position became vacant: 30/06/2018 First publication: 185.E/2018 (III.21.) -> Unsuccessful 515.E/2018 (VII.3.)
		application	<b>Second publication:</b> 520.E/2018 (VII.6.) -> Unsuccessful 760.E/2018 (X.31.)
		justification	In resolution: Section 132 Paragraph (2) of OACH
		informaton	In letter: for applicants and opinion council

	fulfillment of leadership tasks	<b>dr. Péter Tatár-Kis</b> Mandate: 1 November 2018 to 31 October 2019 (one year) 761.E/2018. (X. 31.) OBHE resolution
2. vice-president of the Zalaegerszeg Regional Court (first publication)	precedent	The court leader position became vacant: 30/06/2018}
	application	<b>First publication:</b> 191.E/2018 (III.21.) -> Unsuccessful: 441.E/2018 (VI.19.)
	justification	In resolution: Section 132 Paragraph (2) of OACH
	informaton	In letter: for president, applicants and opinion council
	fulfillment of leadership tasks	authorization with administrative tasks by the president of regional court: 1 June 2018 to 17 October 2018
3. vice-president of the Zalaegerszeg Regional Court (second publication)	precedent	The court leader position became vacant: 30/06/2018 First publication: 191.E/2018 (III.21.) -> Unsuccessful: 441.E/2018 (VI.19.)
	application	<b>Second publication:</b> 442.E/2018 (VI.19.) -> Unsuccessful: 732.E/2018 (X.17.) Engagement from 18 October 2018
	justification	In resolution: Section 132 Paragraph (2) of OACH
	information	In letter: for president, applicants and opinion council
	fulfillment of leadership tasks	<b>dr. Csaba Adorján</b> Mandate: 18 October 2018 to 17 October 2019 (one year) 733.E/2018. (X. 17.) OBHE resolution
4. Head of the Penal Division of the Győr Regional Court of Appeal (Third publication)	precedent	The court leader 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.)
	application	<b>Third publication:</b> 727.E/2017 (XI.7.) -> Unsuccessful: 358.E/2018 (V.22.) Engagement from 23 May 2018
	justification	In resolution: Section 132 Paragraph (2) of OACH
	information	In letter: for president, applicants and opinion council
	fulfillment of leadership	<b>dr. József Lezsák</b> Mandate: 23 May 2018 to 22 May 2019 (one year)

	tasks	358.E/2018. (V. 22.) OBHE resolution
5. Head of the Mid-Transdanubian Administrative and Labour Regional College (first publication)	precedent	The court leader position became vacant: 31/12/2017}
	application	<b>First publication:</b> 892.E/2018 (XII.18.) -> Unsuccessful: 437.E/2018.(VI.19.) <b>Second publication:</b> 438.E/2018 (VI.19.) -> Unsuccessful: 666.E/2018 (IX.21.)
	justification	In resolution: Section 132 Paragraph (2) of OACH
	information	In letter: for applicants and opinion council
	fulfillment of leadership tasks	<b>dr. Dóra Solymos authorization with central administrative tasks from 15 November 2017</b>
6. Head of the Economic Division of the Budapest Environs Regional Court (first publication)	precedent	The court leader position became vacant: 30/06/2018
	application	First publication: 186.E/2018 (III.21.) -> Unsuccessful: 529.E/2018 (VII.6.)
	justification	In resolution: Section 132 Paragraph (2) of OACH
	information	In letter: for president, applicants and opinion council
	fulfillment of leadership tasks	authorization with administrative tasks by the president of regional court: 1 July 2018 to 14 February 2019
7. Head of the Economic Division of the Budapest Environs Regional Court (second publication)	precedent	The court leader position became vacant: 30/06/2018 First publication: 186.E/2018 (III.21.) Unsuccessful: 529.E/2018 (VII.6.)
	application	Second publication: 530.E/2018 (VII.6.) Unsuccessful: 727.E/2018 (X.16.)
	justification	In resolution: Section 132 Paragraph (2) of OACH
	information	In letter: for president, applicants and opinion council
	fulfillment of leadership tasks	<b>dr. Anita Rusznák</b> Mandate: 15 February 2019 to 14 February 2020 (one year) 74.E/2019. (II.04.) OBHE resolution
8. Head of the Penal Division of the Szolnok Regional Court (first publication)	precedent	The court leader position became vacant: 30/06/2018
	application	<b>First publication:</b> 189.E/2018 (III.21.) -> Unsuccessful: 527.E/2018.(VII.6.)
	justification	In resolution: Section 132 Paragraph (2) of OACH

		information	In letter: for president, applicants and opinion council
		fulfillment of leadership tasks	authorization with administrative tasks by the president of regional court: 1 July 2018 to 31 October 31, then <b>dr. Teodóra Pócs</b> Appointment: 1 November 2018 to 31 October 2024 757.E/2018. (X.29.) OBHE resolution
	<b>9. head of the Civil, Economic, Administrative and Labour Division of the Zalaegerszeg Regional Court (first publication)</b>	precedent	The court leader position became vacant: 30/06/2018
		application	<b>First publication:</b> 192.E/2018 (III.21.) -> Unsuccessful: 439.E/2018.(VI.19.)
		justification	In resolution: Section 132 Paragraph (2) of OACH
		information	In letter: for president, applicants and opinion council
fulfillment of leadership tasks	<b>dr. Szonja Herwerth</b> deputy head of college until 17 October 2018, then appointment from 18 October 2018 to 24 October 2024 731.E/2018. (X.17.) OBHE resolution		
<b>10. Győr Regional Court of Appeal, vice-president (first publication)</b>	precedent	the court leader position has fallen vacant: 30 November 2018	
	application	First publication: 644.E/2018. (IX. 14.) → inconclusive: 809.E/2018. (XI. 26.)	
	justification	In resolution: Section 132 Paragraph (2) of OACH	
	information	In letter: for president, applicants and opinion council	
	fulfillment of leadership tasks	authorization with administrative tasks by the president of regional court of appeal: from 1 December 2018	

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 leaders 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.

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



The entity having appointing authority can decide – by the authorization of the law – not to accept the submitted application and to consider the selection process inconclusive. This entity is entitled to exercise this right even if the applicant enjoyed the support of the majority of the opinion councils, since the law provides that they are not bound by the proposal of the opinion councils.

The President of NOJ exercised her right of not accepting the submitted applications in the following cases:

1-5.	1. President of the Budapest-Capital Regional Court (first publication)	precedent	The court leader position became vacant: 04/01/2018
		application	<b>First publication:</b> 692.E/2017 (X.19.) Unsuccessful: 2.E/2018 (I.3.)
		justification	In resolution: Section 133 Paragraph (1) of OACH 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 leadership of the Budapest-Capital Regional Court call for a turning point.
		information	personally: for the applicant and leadership in letter: for the opinion council
		fulfillment of leadership tasks	By the vice-presidents
	2. President of the Budapest-Capital Regional Court (second publication)	precedent	The court leader position became vacant: 04/01/2018 First publication: 692.E/2017 (X.19.) Unsuccessful: 2.E/2018 (I.3.)
		application	<b>Second publication:</b> 4.E/2018 (I.3.) Unsuccessful: 384.E/2018 (V.28.)
		justification	In resolution: Section 133 Paragraph (1) of OACH Essence of the statement of reasons: The challenges for the courts call for a turning point in the leadership 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.



	information	personally: for the applicant and leadership and opinion council
	fulfillment of leadership tasks	<b>dr. Judit dr. Polgárné Vida</b> mandate: 29 May 2018 to 28 May 2019 (one year) 386.E/2018. (V.29.) OBHE resolution
3. President of the Pécs Regional Court of Appeal (first publication)	precedent	The court leader position became vacant: 14/07/2018
	application	<b>First publication:</b> 374.E/2018 (V.23.) Unsuccessful: 632.E/2018 (IX.4.) Invitation of a new call: 633.E/2018 (IX.4.)
	justification	In resolution: Section 133 Paragraph (1) of OACH 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.
	information	in letter: for the applicant and leadership and opinion council
	fulfillment of leadership tasks	<b>dr. Tamás Turi</b> Mandate: 5 October 2018 to 4 April 2019 (six months) 705.E/2018. (X.02.) OBHE resolution
4. Head of the Civil, Administrative and Labour Division of the Budapest Environs Regional Court (first publication)	precedent	The court leader position became vacant: 08/01/2018
	application	<b>First publication:</b> 693.E/2017 (X.19.) Unsuccessful: 95.E/2018 (I.30.)
	justification	In resolution: Section 133 Paragraph (1) of OACH 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
	information	in letter: for the applicant and leadership and opinion council
	fulfillment of leadership tasks	authorization with administrative tasks by the president of regional court: 9 January 2018 to 18 April 2018
5. Head of the Civil Division of the Budapest-Capital Regional Court of Appeal (first publication)	precedent	The court leader position became vacant: 31/05/2018
	application	<b>First publication:</b> 114.E/2018 (II.12.) Unsuccessful: 611 .E/2018. (VIII.28.) Invitation of a new call: 645.E/2018 (IX.18.)
	justification	In resolution: Section 133 Paragraph (1) of OACH

			Essence of the statement of reasons: On the basis of the application, the smooth and constructive cooperation of the professional leadership and the administration did not seem warranted which is, however, indispensable for a Regional Court of Appeal having a priority role of professional leadership.
		information	personally: for the applicant and leadership and opinion council
		fulfillment of leadership tasks	by dr. Csaba Vuleta deputy head of college from 1 June 2018

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 leaders. The Leader Program for Sustainable Development, continuous training courses for court leaders of all levels and the new system supporting the assessment of court leaders 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 leaders.

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