

Strasbourg, 20 January 2016

CONSULTATIVE COUNCIL OF EUROPEAN JUDGES (CCJE)

Questionnaire for the preparation of the CCJE Opinion No. 19 (2016):

“The role of court presidents”

Please in your answers do not send extracts of your legislation but describe the situation in brief and concise manner.

Comments on what is also happening in practice, and not only on point of law, will be much appreciated.

Introduction

The first three sections deal with presidents of first instance courts and presidents of courts of appeal. Please for each question, if and when applicable, make a distinction between the two positions.

The last section specifically deals with the president of the Supreme Court (e.g. Court of Cassation, Courts of last resort, but not with the Constitutional Courts or bodies with similar authority).

The Bureau and the Secretariat of the CCJE thank you very much for your cooperation and contributions.

1. Selection, removal, term of office, decision making process

1.1 How many presidents of first instance courts and how many presidents of the court of appeal there are in your country?

There are 111 district courts (*jársbíróság*), 20 regional courts (*törvényszék*), 5 regional courts of appeal (*ítélőtábla*), each has one president. In addition, there are 20 administrative and labour courts located at the seat of regional courts. Thus, the total number of court presidents is 156.

District courts are always first instance courts, regional courts can be first instance or appeal (i.e. second instance) courts (depending on the type of the case), regional courts of appeal are always appeal (i.e. second instance) courts.

See <http://birosag.hu/en/information/hungarian-judicial-system>

- 1.2 Who appoints (e.g. Judicial Council, Ministry of Justice, Higher court, Parliament, Agency etc.) the presidents of the courts? (Please remember, if applicable, to make a distinction between the presidents of the courts of first instance and of the courts of appeal. Is it possible that presidents of the courts are appointed from other legal professionals than those who are already judges?)

The presidents of the regional courts and the regional courts of appeal are appointed by the president of the National Office for the Judiciary (NOJ).

The presidents of the district courts and the administrative and labour courts are appointed by the presidents of the regional courts.

Presidents of courts can only be appointed from among judges, members of other legal professions are not eligible.

- 1.3 Do the presidents get a “confidence vote” (after or before their appointment) from the other judges of the court?

Yes, such a confidence vote takes place before the appointment of the presidents of the district courts, the regional courts, the administrative and labour courts and the regional courts of appeal.

- 1.4 Please describe briefly the selection procedure for presidents of the courts.

- 1. Vacancy is announced and applications are invited by the person entitled to appoint the president (see 1.2).**
- 2. The plenary session of judges of the relevant court expresses its opinion about the applicants by a secret vote, thereby establishing a ranking between the applicants (a shortlist).**
- 3. The person entitled to appoint the president of the court conducts a hearing (interview) of the applicants.**
- 4. The person entitled to appoint the president of the court takes a decision by either appointing an applicant or by declaring the procedure to be unsuccessful. When making his decision, he must take into account the opinion and the shortlist established by the plenary session of judges, though the opinion/shortlist is not binding on him.**
- 5. If the President of NOJ intends to appoint an applicant not supported by the majority of the plenary session, the President of NOJ must obtain - before the appointment - the prior opinion of the National Judicial Council (NJC) on the applicant. The applicant in question may only be appointed if the NJC gave its consent.**

- 1.5 What kinds of qualifications (e.g. specific training, previous specific judicial position, seniority, managerial experience etc.) are required to become president? (Please explain, for example, if training is mandatory or on a voluntary basis, is there training at all, and how much it affects the choice of the president).

No formal requirements other than those applicable to ordinary judges.

- 1.6 Are presidents selected among the judges of the same court, or they may or must have served in a different court before taking the position as court president.

There are no statutory rules on this issue, but presidents are typically appointed from among the judges of the same court.

- 1.7 Can the candidates, who applied for the position but did not get it, challenge the decision before a court/tribunal?

Yes, before the Budapest Administrative and Labour Court.

- 1.8 How often does it happen? (Please give a percentage based on data available or on your personal knowledge).

No data available.

- 1.9 Is additional training in management, or in other subjects, required after the judge has been selected as court president?

Yes, court presidents are required to take part in the training sessions specified by the President of NOJ and - if appointed by presidents of the regional courts - in the training sessions specified by the presidents of the regional courts, covering inter alia management/leadership skills.

- 1.10 What is term of office for the president of court (please explain if there are limitations)?

6 years.

- 1.11 How many times the same position of court president can be hold by the same person?

The same position of court president can be held twice. An appointment for a third term is only possible with prior approval of the National Judicial Council.

- 1.12 Which is the process to confirm presidents in their position (e.g. assessment of the first term served and then renewal)?

A new appointment requires the same procedure as an appointment for the first time.

- 1.13 Under which circumstances can presidents be removed from their office before the expiration of their term?

- **if the investigation of management activities (see 3.1) finds that the president is unfit for the position, he is relieved of his duties with immediate effect**
- **removal from leading position as a result of disciplinary proceedings (if disciplinary offence committed)**

- 1.14 Who is in charge of the removal procedure, and how it works?

The investigation of management activities may be carried out by a department of the NOJ or a person or a team of persons designated by the president of the NOJ. Disciplinary proceedings are conducted by the disciplinary court. See 3.1.

1.15 Can the president removed challenge the decision before a tribunal/court?

An appeal lies against the decision of the first instance disciplinary court to the second instance disciplinary court (attached to the Curia).

1.16 Are the decisions by the presidents shared/negotiated with the other judges or "boards" within the courts?

The plenary session of judges or the judicial council is entitled to express its opinion on certain matters. For example, the judicial council gives its opinion on the court's annual budget proposal and the court's organizational and operational regulations and case allocation regime.

1.17 Do the local lawyers association or any other authority play a role in the decision making process carried out by the court's president?

No.

1.18 Are the organizational decisions taken by the presidents supervised by any other authority (e.g. Ministry of Justice, Judicial Council, Supreme Court, other)?

Yes, the president of NOJ approves the organizational and operational regulations of the regional courts of appeal and the regional courts.

1.19 Is there any extra remuneration for presidents, and how much is it in percentage of the regular judge's salary in the same court?

Yes, presidents of courts are entitled to an extra remuneration in addition to the judges' salary:

- **presidents of the regional courts of appeal and the president of the Budapest regional court are entitled to an additional remuneration of 60 % of the ordinary judges' salary,**
- **presidents of other regional courts are entitled to an additional remuneration of 50 % of the ordinary judges' salary,**
- **presidents of district courts are entitled to an additional remuneration of 30 or 25 % of the ordinary judges' salary (depending on the size of the district court).**

1.20 Please add any critical issue or further information that you consider relevant for this section.

We have no further comments to add.

2. Tasks, functions, relations

2.1 Are the presidents of the courts adjudicating cases as the other judges or they have a reduction of their caseload fixed by the law or by practice?

The caseload of court presidents is reduced by law. A regulation issued by the president of the NOJ provides that:

- **presidents of regional courts of appeal and regional courts only have to adjudicate on 5-10 days per year,**

- presidents of district courts have to adjudicate on 20-60 days per year depending on the size of the court (presidents of district courts with over 30 judges: 20-30 days, presidents of district courts with less than 5 judges: 50-60 days per year)

2.2 Are the presidents involved in the selection and recruitment of the judges? (Please make a distinction, if applicable, between full-time/permanent judges, temporary judges, lay judges if it applies in your respective jurisdiction).

Yes, the presidents of regional courts of appeal and regional courts have a minor role in the selection process of judges. After applicants for a judicial position have been interviewed and ranked by the judicial council of the court in question, the president of the regional court of appeal or the president of the regional court may either

- propose the appointment of the first ranking candidate to the president of the NOJ, or
- propose the appointment of the second or third ranking candidate to the President of the NOJ, in this case the court president must also provide his reasons in writing.

Presidents of district courts are not involved in the selection process, as applications for the position of a judge at a district court are processed by the regional courts. It is the judicial council of the regional court that interviews the applicants, and the president of the regional court who proposes the first (or 2nd or 3rd) ranking candidate to the president of the NOJ.

2.3 Are the presidents involved in the selection and recruitment of the court staff?

Yes.

2.4 Do the presidents assess the work of the judges of the court? (If this is the case, please describe how often does it happen, what kind of procedure is followed, what are the consequences of this assessment, and if the assessment can be challenged by the judges before a tribunal/court).

Yes, the performance of judges is subject to a periodical evaluation/assessment (in the 3rd year after the appointment, then every 8th year), such an evaluation is ordered by the president of the court ex officio. The president of the court can also order an extraordinary, ad hoc evaluation.

The evaluation is based on an investigation performed by the head of division or by a judge appointed by the head of division. The investigation takes into account

- a) the reports by the head of section on the judge's cases heard during the period examined;
- b) the judge's annual activity report;
- c) the opinion of the head of division of the competent court of second instance;
- d) information on the judge's participation in compulsory trainings; and
- e) other documents, opinions and data provided for in regulations adopted by the president of NOJ.

The president of the court evaluates the findings of the investigation. As a result of the evaluation, a judge may be rated: a) outstanding, recommended for higher judicial office; b) excellent; c) competent; e) incompetent/unfit for his position.

The judge may challenge the result of the evaluation before the disciplinary court of judges.

If a judge is found incompetent/unfit for his position, the president of the court requests him to resign within 30 days. If the judge does not resign, the president must notify the first instance disciplinary court of judges.

- 2.5 Are the presidents in charge of starting a disciplinary procedure against a judge? (If this is the case, please describe briefly the procedure and who is going to make the final decision about the charge).

Yes, the motion for the commencement of disciplinary proceedings must be submitted to the president of the first instance disciplinary court of judges:

a) by the President of the Curia in the case of judges of the Curia,

b) by the president of the regional court of appeal in the case of judges of the regional court of appeal,

c) by the president of the regional court in the case of judges of the regional court and the district courts and administrative and labour courts.

- 2.6 Can, and under which circumstances, the presidents fire a judge or a court employee?

No.

- 2.7 Which is the procedure of assigning cases to judges? Is there place for discretion of president of the court in this procedure? If yes, is it regulated by law or other kind of regulation?

Each section has a defined area of competence, there is place for discretion only insofar as there is an overlap between the competences of different sections.

Alternatively, cases may be assigned automatically, i.e. by using computerised algorithms.

- 2.8 Can presidents set priorities in the handling of the cases (e.g. family cases must be dealt with before contracts)?

The president of a court may order – upon request or ex officio – that an individual case be given priority over others. An ex officio prioritization is possible if

(a) the case raises a particularly important question of general public interest, or

(b) the decision is relevant for a large number of citizens, or

(c) the rights of a child are at issue.

- 2.9 Which are the circumstances that may allow presidents to retrieve cases from judges and re-assign them?

- **if the judge is not in the position to deal with the case anymore, eg due to termination of service as a judge; permanent absence from the court; exclusion from a particular case; or**
- **to balance the workload between different sections of a division.**

- 2.10 Do presidents decide over the composition of court's sections/division and over the composition of judges' panel?

Yes, they do decide about the composition of the court's sections, but not about the composition of the judicial panel dealing with a particular case.

- 2.11 Do presidents select and appoint judges who may coordinate/head a section/division of the court?

The President of the Curia appoints the heads of divisions and heads of sections at the Curia.

The President of the NOJ appoints the heads of divisions at the regional courts of appeal and the regional courts.

The president of the regional court of appeal appoints the heads of sections at the regional court of appeal.

The president of the regional court appoints the heads of sections at the regional court and the district courts (within the jurisdiction of the regional court).

(By "division" we refer to the larger units within a court, such as the Civil/Criminal/Administrative and Labour Divisions, by "section" we refer to the smaller units within a division.)

- 2.12 Can presidents delegate their functions to other judges?

Yes, presidents can delegate some of their functions to their deputies or to other judges in leading positions (such as heads of divisions) on a permanent basis, in accordance with the court's organizational and operational regulations.

Deputy presidents can also perform all the functions of the president if the latter is for any reason unable to perform his functions.

- 2.13 Are presidents supported in their tasks and by whom?

Yes, by the deputy presidents and the heads of divisions.

- 2.14 Have presidents any supervision on the judgments delivered by other judges of the court?

No.

- 2.15 Are presidents in charge of the uniform application of the law within the court, and in which way they carry out this function?

It is the constitutional duty of the Curia to promote the uniform application of law within the Hungarian judiciary, mainly by means of a) rendering uniformity decisions, and b) operating working groups analysing case law. Uniformity decisions are binding on all lower instance courts.

The presidents of lower instance courts also have a duty to monitor the judgments given by the courts presided over by them and the lower courts within their jurisdiction. If they find that a decision of principle was adopted, or there is contradictory judicial practice in matters of principle, or if contradictory final judgments were given in the courts directed or supervised by them, they

must notify the president of the higher court and submit the decisions in question.

2.16 Do presidents set productivity and/or timeframes targets for their court?

Presidents must monitor compliance with procedural time-limits, draw up organizational and operational regulations along the guidelines laid down by the President of NOJ, define the work schedule and approve the work schedule of the divisions, and monitor the way they are carried out; but they do not set binding productivity and/or timeframes targets.

2.17 Do presidents set productivity or timeframes targets for each judge or court staff?

No, but the performance of a judge is evaluated annually in a report based – inter alia – on the number of cases handled and other information relating to performance, and the information contained in the report is taken into account during the investigation and evaluation of the judge.

2.18 Do presidents monitor the length of judicial proceedings and what kind of actions they can undertake to improve the pace of litigation?

Yes, presidents must monitor compliance with procedural time-limits. They can prioritise individual cases, see 2.8.

2.19 What are the functions of presidents as far as the management of judges and court staff is concerned (i.e. setting working hours, authorising holidays, moving staff from one function to another, allowing extra-judicial activities etc.)?

The employer's rights are exercised:

a) by the President of the Curia in the case of Curia judges,

b) by the president of the regional court of appeal in the case of judges of the regional court of appeal,

c) by the president of the regional court in the case of judges of the regional court and district courts, and administrative and labor courts.

In this capacity, presidents may exercise some discretion, e.g. the president may authorize a judge after one year of judicial practice (following his initial appointment as a judge) to work at the court only on the days when he/she has trials scheduled. The president can also authorize absence for holidays or extra-judicial activities.

2.20 Have presidents any discretion in setting the remuneration (i.e. financial incentives) or other fringe benefits (please explain which one) of judges or court staff?

Presidents have some discretion in this regard, e.g. a judge may receive remuneration for extra workload, such as presiding over and coordinating a working group analysing case law.

2.21 Which tasks presidents have in the appropriation of the court budget among the different courts?

None. It is the President of the NOJ who performs the functions related to the budget of courts, most importantly:

- a) prepares a proposal for the budget of courts following consultation with the National Judicial Council, having regard to the court chapter of the act on the central budget, and as far as the Curia is concerned, following consultation with the President of the Curia, and the Government presents this proposal to Parliament unaltered, as part of the bill on the act on the central budget;
- b) participates in the Government sessions and the sessions of the Parliamentary Budget Committee to discuss the chapter on the budget of the judiciary of the bill on the act on the central budget;

2.22 Which tasks and how much discretion presidents have in the management of the court budget within the court?

The president of the court:

- a) provides for the personal and material conditions of the operation of the court from the available budgetary funding;
- b) directs the court's financial and economic affairs.

2.23 Do presidents manage the court premises and layout?

Yes. Responsibility for maintaining order in the court building lies with the president of the court. To this end the president of the court establishes the house rules for the court building, designates the areas open to visitors, litigants and the general public, and adopts the related internal policies in conformity with the requirements laid down by the President of NOJ and shall post them on the central website, and also on the court's own website, if available.

2.24 Do presidents manage information and communication technology implemented in the court?

No, the information and communication technology of courts is centralized and managed by the National Office of the Judiciary (NOJ).

2.25 Do presidents have some autonomy about what kind of information and communication technology tools/application should be implemented in their court?

No, see 2.24.

2.26 Are presidents really the managers of the court or they are supported in their functions by a board (please describe the composition) or by a court manager/administrative director?

Presidents of higher courts are supported by a manager or administrative director.

2.27 If applicable, please briefly describe the functions and the background of the court manager in comparison to the president of the court.

The court manager has no autonomy, his actions must be approved by the court president.

2.28 Please describe briefly the court manager selection process, if they serve for a limited term, and if the president can remove the court manager.

The same selection process applies as to any other clerk of the court.

2.29 Are presidents the "interface" with the media, and are they trained to do it?

Yes, but

- **deputy presidents and heads of division may also represent the court in media,**
- **other judges may represent the court with the permission of the president,**
- **higher courts and sometimes even divisions of higher courts (e.g. the civil or criminal division) have a spokesperson as well. Spokespersons are typically judges, not professional communicators.**

2.30 Would you please briefly describe what kind of relations there are between presidents of the courts (first instance and appeal) and the president of the Supreme Court (court of last resort)?

There are some formalised links, e.g. the presidents of lower courts must notify the president of the higher court in case of contradictory judicial practice in matters of principle, see 2.15.

2.31 Are there other tasks of presidents of the courts in your country, which were not mentioned before?

Court presidents also have a role in organizing education and training for judges. For example, presidents of regional courts of appeal coordinate the training of judges and judicial staff of the courts located in their area of jurisdiction.

2.32 Please add any critical issue or further information that you consider relevant for this section.

We have no further comments to add.

3. Accountability and discipline

3.1 What kind of accountability mechanisms (e.g. reporting, auditing, etc.) are in place for the presidents, and before which authority (e.g. Judicial Council, Ministry of justice, Supreme Court, internal board etc.)?

Periodical evaluation of judges

While judges are subject to a periodical evaluation (in the 3rd year after the appointment, then every 8th year), the court presidents appointed by the president of the NOJ (i.e. the presidents of the regional courts and the regional courts of appeal) are exempt from such a periodical evaluation.

Annual reports

The presidents of the regional courts and the regional courts of appeal must submit a written report each year to the president of the NOJ.

Investigation of management activities of judges in leading positions

The management activities of a court president may be investigated by the person entitled to appoint the court president (i.e. the president of the NOJ or the president of the regional court), as deemed necessary, but in any event at least once, during the year preceding the date when the president's mandate is scheduled to expire. (This applies not only to court presidents but to all judges in leading position.)

The court presidents appointed by the president of the NOJ (i.e. the presidents of the regional courts and the regional courts of appeal) are subject to an ordinary investigation by the president of the NOJ every third year.

The president of the NOJ may also commence an extraordinary, ad hoc investigation, if the suspicion arises that the president violated his legal duties or failed to comply with the decisions made or the regulations issued by the president of the NOJ.

The investigation of management activities may be carried out by a department of the NOJ or a person or a team of persons designated by the president of the NOJ.

If the findings of the investigation give rise to reasonable suspicion of any disciplinary offence, the person entitled to appoint the court president shall apply for the opening of disciplinary proceedings.

Disciplinary proceedings

Disciplinary proceedings can be initiated against a court president by the person entitled to appoint the court president (i.e. the president of the NOJ or the president of the regional court). The proceedings are conducted before a disciplinary court. There is a first instance disciplinary court attached to the Budapest Regional Court of Appeal and a second instance disciplinary court attached to the Curia. The disciplinary courts consist of judges appointed by the National Judicial Council. These courts also deal with disputes arising from the evaluation of judges.

3.2 Do presidents have a different disciplinary responsibility in comparison to the judges?

No. The same procedure applies, the same disciplinary court is competent.

3.3 Is there any special immunity for presidents?

No immunity from disciplinary proceedings.

See 3.1: the court presidents appointed by the president of the NOJ (i.e. the presidents of the regional courts and the regional courts of appeal) are not subject to a periodical evaluation.

3.4 Which criteria are used for the evaluation of presidents, how often, and by whom?

See investigation of management activities of judges in leading positions, as explained in 3.1.

3.5 Which are the consequences of such evaluation (e.g. ranking, promotion, admonition, removal, salary increase, any other consequence, etc.)?

Promotion or removal.

- 3.6 Please add any critical issue or further information that you consider relevant for this section.

We have no further comments to add.

4. Appointment, tasks, functions, relations of the president of the Supreme Court (Chief Justice of the court of last resort e.g. court of cassation; please note that you do not have to describe the position of president of the Constitutional Court / here and after referred as president of the Supreme Court).

- 4.1 Who appoints (e.g. Judicial Council, Ministry of Justice, Parliament, etc.) the president of the Supreme Court?

Parliament.

- 4.2 Please describe briefly the selection procedure.

Within 3 months of, but not later than 45 days before, the expiry of the term of the President of the Curia (=the Supreme Court), the President of the Republic proposes to the Parliament a person for the office of the President of the Curia. The candidate must have served as a judge for at least 5 years.

The Parliamentary Committee on Justice Affairs holds a hearing of the candidate.

The Parliament must vote on the candidate within 15 days of the proposal by the President of the Republic.

To be elected, the Parliament must approve of the candidate by a 2/3 majority.

The successful candidate is elected for a term of 9 years.

If the candidate is not elected, the President of the Republic must make a new proposal within 30 days. The President of the Republic may propose the same person again.

- 4.3 What kind of qualifications (e.g. specific training in management, previous specific judicial position, seniority, etc.) are required to become president of the Supreme Court? (Please also explain if training is mandatory or on a voluntary basis, if any training is necessary at all, and how much it affects the choice of the president).

There are no requirements other than to be a judge appointed for an indefinite period of time and to have served as a judge for at least 5 years.

- 4.4 Does the president get a "confidence vote" (after or before their appointment) from other judges of the Supreme Court?

No.

- 4.5 How long is term of office of the president of the Supreme Court (please explain if there are limitations)?

9 years. There is no limitation on the number of terms of the President.

- 4.6 Can their mandate be renewed, and what is the process (e.g. evaluation of the first term served and then renewal)?

Mandate can be renewed for an indefinite number of terms, there is no special process for such renewal.

- 4.7 What are the tasks and functions of the president of the Supreme Court in comparison to the other courts' presidents? (in particular, please explain the role of the president, if any, in relation to: Judicial Council, Ministry of Justice, legislative power, budget of the judiciary).

The President of the Curia

a) directs and represents the Curia;

b) reports to Parliament annually on the activities performed by the Curia in order to ensure uniform application of the law by the courts and informs the regional courts of appeal and the regional courts thereof;

c) reports to Parliament annually on carrying out the duties relating to monitoring municipal (local government) decrees to establish if they are lawful;

d) gives an opinion on the proposal for the budget of courts and the report on the implementation thereof – insofar as the Curia is concerned;

e) provides for the personal and material conditions for the operation of the Curia from the available budget;

f) directs the financial affairs of the Curia;

g) exercises the employer's rights conferred upon him by law,

h) monitors the Curia's compliance with procedural time-limits;

i) enforces compliance with administrative and executive regulations at the Curia;

j) draws up organizational and operational regulations along the guidelines laid down by the President of NOJ, defines the work schedule for the Curia and approves the work schedule of the divisions, and monitor the way they are carried out;

l) informs the President of NOJ and the plenary session and other employees of the Curia once a year about:

oa) the operation of the Curia, on its case load and financial standing,

ob) the goals set for the next calendar year,

oc) the execution of goals and actions set for the previous calendar year, and on their outcome;

q) is responsible for the timely implementation of the decisions of the President of NOJ;

s) may request the Constitutional Court to review the compliance of legislation with the Fundamental Law.

- 4.8 Please add any critical issue or further information that you consider relevant for this section.

No limitation on the number of terms.

No role of plenary session of judges in the appointment of the President of the Curia.