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THE IMPORTANCE OF ADEQUATE REMUNERATION OF JUDGES

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Abstract: Judicial independence is a requirement in EU law stemming from the principle of effective judicial protection referred to in Article 19 of the Treaty on the European Union (hereinafter: TEU), and from the right to an effective remedy before a court enshrined in Article 47 of the Charter of Fundamental Rights of the European Union (hereinafter: Charter). Furthermore, it forms part of the essence of the right to a fair trial (CJEU C-896/19, 51).

This study focuses on researching judicial independence from material point of view, because it is a question whether a judge can be independent without appropriate remuneration or not, and whether the Hungarian system corresponds to the expectations of the Court of Justice of the European Union (hereinafter: CJEU) and the European Court of Human Rights (hereinafter: ECtHR), furthermore charters, reports, opinions and other documents drawn up by bodies of the Council of Europe (hereinafter: CU) or under the aegis of the United Nations (hereinafter: UN).

Keywords: judicial independence, remuneration of judges

A bírák megfelelő javadalmazásának fontossága

Absztrakt: A bírói függetlenség az uniós jogban előírt követelmény, amely az Európai Unióról szóló szerződés (a továbbiakban: EUSz) 19. cikkében említett hatékony bírói védelem elvéből, valamint az Európai Unió Alapjogi Chartájának



(a továbbiakban: Charta) 47. cikkében rögzített, bíróság előtti hatékony jogorvoslathoz való jogból fakad. Továbbá, a bíróságok függetlenségére vonatkozó e követelmény a tisztességes eljáráshoz való alapvető jog lényegéből is következi (CJEU C-896/19, 51).

Ezen tanulmány fókuszában a bírói függetlenség anyagi oldalának vizsgálata áll, mert kérdés, hogy egy bíró független lehet-e megfelelő javadalmazás nélkül, illetve hogy a magyar rendszer megfelel-e az Európai Unió Bírósága (a továbbiakban: EUB) és az Emberi Jogok Európai Bírósága (a továbbiakban: EJEB) elvárásainak, valamint az Európa Tanács szervei vagy az Egyesült Nemzetek Szervezete égíse alatt kidolgozott chartáknak, jelentéseknek, véleményeknek és egyéb dokumentumoknak.

Kulcsszavak: bírói függetlenség, bírák javadalmazása

Die Bedeutung einer angemessenen Vergütung von Richtern

Abstrakt: Die richterliche Unabhängigkeit ist ein in EU-Recht verankertes Erfordernis, das sich aus dem Grundsatz des wirksamen gerichtlichen Rechtsschutzes gemäß Artikel 19 des Vertrags über die Europäische Union (im Folgenden: EU-Vertrag) sowie aus dem in Artikel 47 der Charta der Grundrechte der Europäischen Union (im Folgenden: Charta). Darüber hinaus ergibt sich diese Anforderung an die Unabhängigkeit der Gerichte auch aus dem Wesen des Grundrechts auf ein faires Verfahren (EuGH C-896/19, 51).

Dieser Artikel befasst sich mit der Untersuchung der richterlichen Unabhängigkeit aus materieller Sicht, denn es geht um die Frage, ob ein Richter ohne angemessene Vergütung unabhängig sein kann oder nicht, und ob das ungarische System den Erwartungen des Gerichtshofs der Europäischen Union (im Folgenden: EuGH) und des Europäischen Gerichtshofs für Menschenrechte (im Folgenden: EGMR) sowie den Charta, Berichten, Stellungnahmen und anderen Dokumenten entspricht, die von Organen des Europarats oder unter der Schirmherrschaft der Vereinten Nationen erstellt wurden.

Schlagworte: richterliche Unabhängigkeit, Richterbesoldung

Introduction

The judiciary plays an essential role as the third branch of powers in a democratic state governed by the Rule of Law (CCJE Opinion No. 24., 2021, 1.), which task is to make binding decisions for the parties and to do so impartially by applying law to fact (Mack, 2018, p. 4). Its mission is to ensure the proper application of the law in an impartial, just, fair and efficient manner (Magna Carta of Judges, 2010, 1).

A democratic country that protects human rights and the Rule of Law requires the existence of an independent and impartial justice system, as well as independent and impartial judges (Agmon and Gonen, 2005, p. 120). Therefore, independence and impartiality are essential prerequisites for the correct operation of justice (Magna Carta of Judges, 2010, 2). The requirement of independent courts and tribunals is inherent in the task of adjudication (CJEU, C-791/19, 58; C-718/21, 61; C-619/18, 58; C-204/21, 354; C-64/16, 42; C-49/18, 65). Judicial independence is integral to the task of judicial decision-making (Rule of Law Report, 2024, 10), it is inseparable from judicial practice, and it is an imperative feature of any justice system (Dakolias and Thachuk, 2000, p. 361).

When judicial independence is mentioned, notions like institutional, procedural and personal guarantees usually come to mind. The rules of the appointment and promotion of judges, their immovability, the order of distribution of cases, the conflict-of-interest rules, etc. are often discussed, whereas the remuneration and financial independence of judges are far less known even though these are also essential parts of judicial independence. This is the opinion of the Hungarian Constitutional Court as well since it declared that the remuneration of judges is part of judicial independence (Hungarian Constitutional Court, Decision 3535/2021. (XII. 22.) AB, [55]).

Therefore, in this study I intend to focus on researching independence of judges from material point of view, because it is a question whether a judge can be independent without appropriate remuneration or not, and whether the Hungarian system corresponds to the expectations of the CJEU, the ECtHR, and charters, reports, opinions and other documents drawn up by bodies of the CE or under the aegis of the UN.

My research is based on case-law-study methodology during which I collected, analysed and compared the settled case-law of the CJEU, the ECtHR, and examined several recommendations of different international organisations on the subject matter of requirements of remuneration of judges.

The remainder of this study is organized as follows. Section 2. demonstrates the importance of judicial independence, while Section 3. shortly discusses the aspects of judicial independence. In Section 4. I demonstrate the basic expectations of the CJEU, the ECtHR and different international organisations on the matter of remuneration of judges and explain why it is crucial for the Member States to recognize the responsibility of judges with adequate remuneration. In Section 5. I present the financial situation of Hungarian judges with which I would like to point out that – despite the Legislator apparent to do efforts to remedy the situation – there is still a lot to do to correspond to the European and international expectations regarding judges’ salaries. Finally in Section 6. I conclude the result of my research and give answers to the questions asked.

1. The importance of judicial independence

The majority of civilized, developed, democratic states expressly guarantee judicial independence in law, in their Basic Laws or in their Constitutions, and it is also declared and protected by several European and international declarations like the European Convention on Human Rights (1950, hereinafter: ECHR), the European Charter on the Statute of Judges (1998), the Charter (2000/2009), the Recommendation of the Council of Europe CM/Rec(2010)12 Judges: independence, efficiency and responsibilities (2010), the Magna Carta of Judges (2010), the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966/1976), the International Bar Association: Code of Minimum Standards of Judicial Independence (1982), the Montreal Universal Declaration on the Independence of Justice (1983), the Basic Principles of the United Nations on the Independence of the Judiciary (1985), the Bangalore Principles of Judicial Conduct (2006), the Mount Scopus International Standards of Judicial Independence (2008), the Bologna and Milan Global Code of Judicial Ethics (2015).

Article 6 of the ECHR and Article 47 of the Charter formulate the basic principle of an independent and impartial court with almost verbatim content, that is to say literally, its basic essence is that everyone has the right to have their case heard and judged fairly, publicly within a reasonable time by an independent and impartial court established by law.

However, neither the EU legal norms, nor the international legal provisions *expressis verbis* define exactly what ‘independent court’ means, and what those criterias are which existence make a court to be considered as independent. But from European and international legal acts we can draw the conclusion that judicial independence means that judges are subject only to the law and they cannot be instructed in their judicial activity. The same is stated in The Fundamental Law of Hungary of 25 April 2011 in Chapter ‘The Judicature’ (A bíróság) Article 26 para (1). It is also worth to mention that point 1.c) of the Minimum Standards of Judicial Independence (1982) published by the International Bar Association (hereinafter: IBA) states similarly when it declares: ‘[i]n the discharge of his/her judicial function a judge is subject to nothing but the law and the commands of his/her conscience’.

The purpose of independence is to guarantee every person the fundamental right to have their case decided in a fair trial, on legal grounds only and without any improper influence (Recommendation CM/Rec(2010)12, 2010, Appendix 3). Therefore, the independence of individual judges is a guarantee that every person’s case is decided only in accordance with the law, based on facts and evidence without any influence. If judges are not independent, they can be subject to influence could distort the outcomes of cases, skew the development of substantive law, detract from public confidence in the judicial system (Miller, 2004, p. 457). Judges’ impartiality and independence are essential to guarantee the equality of parties before the courts (Rule of Law Report, 2024, p. 10).

Well-functioning, efficient, fully independent justice system is crucial for the application and enforcement of EU and national law, for upholding the Rule of Law (Rule of Law Report, 2024, p. 10), is vital for ensuring the fairness of judicial proceedings and the trust of the public in the legal system (EU Justice Scoreboard, 2024, 60). It is of cardinal importance as a guarantee that all the rights which individuals derive from EU law will be protected and that the values common to the Member States set out in Article 2 TEU will be safeguarded (CJEU, C-619/18, 58; C-204/21, 354). In the absence of an independent and

impartial judiciary, the enforcement of individual's fundamental rights might be violated, and may ultimately become impossible (Orbán, 2021, point [4]). Only independent judges can ensure the fairness of court proceedings and are key to ensure that justice is delivered to the benefit of citizens and businesses. Moreover, there is no effective remedy without an independent court.

The court, as such, is not only the guardian and protector of public property and individual freedom, but also one of the most difficult-to-access bulwarks of a country's Constitution. In a democratic state an independent judicial body formulates institutional safeguard for the exercise of individuals' fundamental and procedural rights. Therefore, judicial independence is not a prerogative or privilege granted in judges' own interest, but it is in the interest of the Rule of Law, and for people seeking and expecting impartial justice, which has many guaranteed elements including the financial recognition of judges.

2. Aspects of judicial independence

From Section 2. it is obvious: judicial independence primarily means that judicial activity is free not just from political, but from any other (e.g. economic) influence. Its basic requirement is that judges adjudicate their decisions free of any outside or inside influence, exclusively in accordance with the laws in force, based on their inner convictions.

According to the above-mentioned, two aspects of judicial independence are usually distinguished: 1. external, or in other words institutional independence, meaning the independence of the court, tribunal itself, and 2. internal independence, meaning the personal or professional independence of individual judges. The first is related to the principle of separation of powers, while the second is related to impartiality.

2.1. *External judicial independence*

Regarding this matter, the CJEU explained: the concept of independence presupposes that the body concerned exercises its judicial functions wholly autonomously, without being subject to any hierarchical constraint or subordinated to any other body, without taking orders or instructions from any source whatsoever, and that it is thus protected against external interventions or

pressure liable to impair the independent judgment of its members and to influence their decisions (C-64/16, 44; C-146/23 and C-374/23, 49). Furthermore, it recorded that ‘[i]t is necessary that judges should be protected from external intervention or pressure liable to jeopardise their independence’ (C-896/19, 55; C-824/18, 119). According to the ECtHR’s jurisprudence, – which is in line with the jurisprudence of the CJEU – Article 6 of the ECHR requires independence not only from the Executive and the parties but also from the Legislator (Ninn-Hansen v. Denmark, 1999), the latter which follows from the principle of separation-of-powers which is linked to the doctrine of checks-and-balances. Unfortunately, however it is impossible, within the scope of this study, to elaborate on the importance of the principle of separation-of-powers and the doctrine of checks-and-balances (on this subject see Persson et al., 1997; Waldron, 2013; Holcomb, 2018; Abdullah, 2023).

From the above two principles follows the judicial monopoly of the court, which is ultimately embodied in the exclusivity of judicial activity (Hungarian Constitutional Court, Decision 166/2011. (XII. 20.) AB, III.4.). The peculiarity of judicial power is that it is permanent and neutral compared to the other two ‘political’ branches of power (Hungarian Constitutional Court, Decision 38/1993. (VI. 11.) AB, III.2.)

Thus – in my opinion – external independence means the independence of the court as an institution, as one of the three branches of power, according to which the other two branches of power cannot exert influence or pressure on it, and whose role is to protect judicial decision-making from every kind of improper influence outside the proceedings.

2.2. The internal dimension of judicial independence

Internal independence – according to the CJEU – means that ‘[a]n equal distance is maintained from the parties to the proceedings and their respective interests with regard to the subject matter of those proceedings. That aspect requires objectivity and the absence of any interest in the outcome of the proceedings apart from the strict application of the Rule of Law.’ (C-216/18, 65; C-619/18, 73; C-506/04, 52; C-192/18, 110; C-896/19, 55). The CJEU took the position that national rules laying down the guarantees of independence and impartiality must, in particular, be such as to preclude not only any direct influence, in the form of instructions, but also types of influence which are more indirect, which

are liable to have an effect on the decisions of the judges concerned (C-896/19, 55).

The ECtHR is of the opinion that Article 6 of the ECHR requires the court to be impartial and holds that as regards the requirement of impartiality, the tribunal must be subjectively free of personal prejudice or bias and must also be impartial from an objective viewpoint, in that it must offer sufficient guarantees to exclude any legitimate doubt in this respect (*Anželika Šimaitienė v. Lithuania*, 2020; *Haarde v. Iceland*, 2018; *Khoniakina v. Georgia*, 2012; *Kyprianou v. Cyprus* 2005; *Grievés v. the United Kingdom*, 2003; *Castillo Algar v. Spain*, 1998; *Ferrantelli and Santangelo v. Italy*, 1996; *Wettstein v. Switzerland*, 2000).

Internal independence presupposes the personal independence of individual judges, according to which neither other judges nor court leaders can influence their judicial activity thereby are protected from undue internal pressure within the judiciary. According to Miller, the expression of judicial independence entails granting trial courts substantial autonomy even from oversight and control within the judicial branch (Miller, 2004, p. 457). And as Shetreet notes, internal independence of the judiciary is the independence of a judge from his judicial superiors and colleagues (Shetreet, 2012, p. 2).

Hence, internal independence goes beyond the fact that judges are subject only to the law and cannot be instructed, and means the absence of undue influence, because the essence of impartiality is that the judge cannot be biased. Impartiality is one of the basic requirements of the correct, well-founded judgments, because it guarantees judges has no conflicts-of-interest or association with the parties, the subject of the trial, that might be perceived to compromise objectivity (Recommendation CM/Rec(2010)12, Explanatory memorandum, 19). In their decision-making judges should be able to act without any restriction, improper influence, pressure, threat or interference, direct or indirect, from any authority, including authorities internal to the judiciary (Recommendation CM/Rec(2010)12, Appendix 22). Shetreet phrased this as ‘substantive independence’, which – according to him – refers to the neutrality of mind of a judge (Shetreet, 2012. p. 2).

From my perspective, a judge can be and remain objective if he/she is able to exclude himself/herself from the case, if he/she is able to put his/her own human qualities, emotions, thoughts and interests into the background during his/her judicial activity, if he/she is able to step out of his/her own framework

and look at the case from a top-down approach. It is not a mere coincidence that the eyes of the symbol of justice, Goddess Iustitia, are covered by a cloth in artistic representations.

I agree with the standpoint of the CJEU that impartiality requires objectivity. In my opinion objectivity requires the judge to pay full attention to the given legal problem itself and should not be misfocused by questions are not in any way connected to the given legal case. That is why it is essential a judge is not distracted by, e.g. working conditions, or by private life issues, for instance financial problems.

3. Basic requirements and the role of financial recognition of judges

As I already mentioned in Section 2, several European and international legal acts deal with the subject of judicial independence, which also set expectations on the remuneration of judges. Moreover, the CJEU and the ECtHR also had the chance to explain their opinion on this matter.

3.1. Basic requirements

The first memorable document is the Magna Carta of Judges, which declares in para 7 that '[t]he State shall ensure the human, material and financial resources necessary to the proper operation of the justice system. In order to avoid undue influence, judges shall receive appropriate remuneration (...), to be established by law.'. Point 54 of the Appendix of Recommendation CM/Rec(2010)12 pronounces that judges' remuneration should be commensurate with their profession and responsibilities and be sufficient to shield them from inducements aimed at influencing their decisions. Moreover, it holds that specific legal provisions should be introduced as a safeguard against a reduction in remuneration aimed specifically at judges. Point 57 of the Explanatory memorandum of this Recommendation states that an adequate level of remuneration is a key element in the fight against corruption of judges and aims at shielding them from any such attempts.

The Venice Commission's Report on the independence of the judicial system also declares that the remuneration of judges has to correspond to the dignity of the profession and that adequate remuneration is indispensable to protect judges from undue outside interference. Furthermore, it states that the level of remuneration should be determined in the light of the social conditions in the country and compared to the level of remuneration of higher civil servants (Venice Commission Report, 2010, 46). The Consultative Council of European Judges (hereinafter: CCJE) considers that it is generally important to make specific legal provision guaranteeing judicial salaries against reduction and to ensure at least *de facto* provision for salary increases in line with the cost of living. It holds that judges' remuneration should be commensurate with their role and responsibilities. (CCJE Opinion No. 1, 2001, 62, Conclusions (8)).

The IBA adopted the Minimum Standards of Judicial Independence in 1982 which says that judicial salaries shall be adequate and should be regularly adjusted to account for price increases independent of executive control (point 14.).

The so-called Montreal Declaration also emphasizes that the salaries of judges shall be adequate, commensurate with the status, dignity and responsibility of their office, and be regularly adjusted to account fully for price increases (point 2.21.b).

3.2. *Case-law*

The CJEU first expressed its position regarding judicial remuneration in the case of *Associação Sindical dos Juizes Portugueses v. Tribunal de Contas* according to which '[L]ike the protection against removal from office of the members of the body concerned, the receipt by those members of a level of remuneration commensurate with the importance of the functions they carry out constitutes a guarantee essential to judicial independence.' (C-64/16, 45). Then it confirmed its opinion in the case of *Vindel* (C-49/18, 66) and the case of *XL v. Sąd Rejonowy v. Białymstoku* (C-146/23 and C-374/23, 49). Therefore, national rules on judges' remuneration must not give rise to reasonable doubts, in the minds of individuals, as to the imperviousness of the judges concerned to external factors and as to their neutrality with respect to the interests before them (C-146/23 and C-374/23, 52).

The settled case law of the ECtHR deals with the issue of judicial independence under the title of the right to a fair trial referred to in Article 6 of the ECHR and in connection with the right to property referred to in Article 1 of Protocol No. 1. Thus, in the case of *Zubko and Others* the ECtHR held that the failure of the State to provide judicial benefits to judges in a timely manner is incompatible with the need to ensure their ability to exercise their judicial functions independently and impartially, in order to be shielded from outside pressures aimed at influencing their decisions and behavior. Furthermore, the ECtHR explained that the failure to ensure adequate and timely payment of the remuneration of domestic court judges upsets the fair balance that must be struck between the demands of the public interest and the need to protect the applicants' right to the peaceful enjoyment of their possessions. According to the ECtHR's opinion, if judges do not receive the benefits which they were entitled by law for a longer time due to the procedure of the national authorities (in the mentioned case: the non-enforcement of final judgments), this may impede the exercise of their judicial functions with the necessary dedication. In this case, the ECtHR found that the Ukrainian State violated the right to the peaceful enjoyment of judges' possessions within the meaning of the first paragraph of Article 1 of Protocol No. 1. (*Zubko and Others v. Ukraine*, 2006, 68-70.).

The CJEU declared in its most recent case that the principle of judicial independence, read in conjunction with the principle of legal certainty, requires that the detailed rules for determining judges' remuneration be objective, foreseeable, stable and transparent, so as to exclude any arbitrary intervention by the legislature and the executive of the Member State concerned. It also explained that '[t]he level of remuneration of judges must be sufficiently high, in the light of the socio-economic context of the Member State concerned, in order to confer on them a certain economic independence to protect them against any external interference or pressure that might undermine the neutrality of the judicial decisions they must take. Thus, the level of that remuneration must be such as to protect judges against the risk of corruption.' (CJEU C-146/23 and C-374/23, 56., 58.).

3.3. Reasons for the need for adequate judicial remuneration

From those legal acts, opinions and recommendations mentioned in Section 4.1. – along with the settled case law of the CJEU and the ECtHR mentioned in Section 4.2. – we can draw the conclusion that it is expected, both at the European and international level, that the salaries of judges should be in line with the dignity of the office they hold, the size and weight of the responsibility they bear, be proportionate to the complexity and difficulty of the task they perform, and be sufficient to protect them from outside or inside improper interference influencing their decisions and behaviour.

Adequate remuneration of judges is essential for several reasons. On the one hand, because judges have specific responsibilities in the field of administration of justice. Judges' task is multifaceted and difficult involving extraordinary amount of workload. People place their trust in the justice system and expect their legal disputes to be adjudicated by a professionally qualified, prepared, wise, impartial, unbiased and uninfluenced judges, whose duty is to protect, in all cases, the rights and freedoms of individuals equally, while respecting their dignity in the conduct of court proceedings (CM/Rec(2010)12, Explanatory memorandum, 61). It is also a requirement that judges should manage each case with due diligence, within a reasonable time, should give clear reasoning for their judgments in a language which is clear and comprehensible. Furthermore, judges should regularly update and develop their proficiency (CM/Rec(2010)12, Appendix, 59, 62-63, 65). To meet the expectations of society and the challenges of our age and continuous changes in legislation, judges must learn and expand their professional knowledge a lot.

On the other hand, inadequate payment can undermine judges' motivation to work, and the above-mentioned tasks will not be fulfilled if their work is not financially appreciated, judges will not become self-confident, strongly motivated and will not perform their office with full dedication. From my perspective, if judges' salaries do not correspond to the dignity of the profession they hold and judges suffer from financial problems, then it can undermine objectivity.

If judges' remuneration barely corresponds to the dignity of the office they hold, then the judicial career cannot develop respectable and reliable judges. Inadequate payment can also cause judges to leave the judicial field since – in my opinion – highly qualified, excellent professionals look for other career opportunities if their

work is not financially appreciated. Furthermore, because of low salary, the judicial career will not be attractive to the best lawyers, and not the most qualified ones will apply to be a judge. This opinion is confirmed by the CCJE who stated in its latest opinion that underfunding and inadequate remuneration for judges can lead to judicial vacancies, recruitment and retention issues, staff shortages, and case backlogs, increasing judges' workloads and elevating their levels of stress, which in turn can affect the quality of their decision-making (CCJE Opinion No. 28, 2025, 21). Departing judges take with them experience and expertise that are difficult to replace (Entin, 2011, p. 41).

Moreover, it is generally accepted that very small salaries for judges, especially if they are not sufficient for a decent way of life, make the judges liable for corruption and undermine their reputation in society (Venice Commission, CDL-JD(2008)006).

Adequate salaries ensure that judges will not get into a vulnerable position, can make their decisions independently and objectively. An income commensurate with the importance and difficulty of the task judges perform, the magnitude of the responsibility falling on judges, and the dignity of the position they hold, can contribute to improve the quality of the administration of justice, which also ensures moral integrity. In other words, adequate wages are not only important from the point of view of individual income and the financial appreciation of judges, but also from the point of view of the stability of a country's legal system, social trust, economic growth and the efficiency of the judiciary. Therefore, it is an important political interest that judges are able to devote themselves exclusively to solve their difficult judicial tasks with complete objectivity and calmness without financial worries, since only those who are remunerated in a way worthy of the position can be independent, reliable and only such a judge is strong enough to bear the burden of responsibility that falls on him/her.

All in all, appropriate remuneration as a core element of judicial independence is not a reward or selfish interest of judges, but rather the safeguard of the organizational integrity of the judiciary, as well as the bedrock of continuous improvement of the high standard of justice that is in the interest of the state and public.

4. Financial situation of Hungarian judges

The remuneration of Hungarian judges – except judges of the Hungarian Curia – consists of a basic salary and allowances such as duty allowance, executive bonus and title premium. (Act CLXII of 2011., s 168).

The basic salary is made up of the multiplication of the salary base and index numbers between 1.25 and 2.10, the later which correspond to the length of judicial service time. Judges shall move up one pay grade for every three years of service time (Act CLXII of 2011., s 169 p 1-2, s 170 p 2, Annex 2). There are 14 pay grades which means that the index number increases by 0.05 in each pay grade. In practice this means an approximately 5% salary increase every three years.

The salary base is established – since 1997 (Act LXVII of 1997, s 103 p 2) – by the act on the central budget every year with the proviso that it may not be less than the sum established for the previous year (Act CLXII of 2011., s 169 p 2).

District court judges, general court judges and judges of courts of appeal are entitled to duty allowance, which is 20/40/70% of the salary base (Act CLXII of 2011., s 173 p 1-2).

There are other forms of remuneration, benefits and expense accounts, which are subject to special conditions, and/or depend on the decision of the person exercising employer's rights, therefore the presentation of these is beyond of the scope of this study (for instance: "cafeteria" benefits and language premium, the latter which shall be paid for placing judges' knowledge of a foreign language at the employer's disposal. The amount of the language premium is between 2-8% of the salary base monthly.)

The monthly salary of Curia judges – from 19 February 2025 – is 60% of the monthly salary of the President of the Curia, which is seven times the salary base of judges. In addition to this, Curia judges are entitled to special duty allowance on the basis of their previous positions. Moreover, judges assigned to the Curia are entitled to 30% of their salary base (Act CLXII of 2011., s 150 p 1, s 158/C, s 195 p 2, 5).

According to the Legislator, the reason of different payment system in the Curia is to ensure that the judges of the highest judicial body receive a special salary for their activities (reasoning of Act LXXIV of 2024.). In my opinion, the

differentiation between the salaries of lower court judges and Curia judges is necessary to attract highly skilled judges to the Curia therefore ensure that the Curia is the assembly of the best judges which can – from my point of view – contribute to legal certainty and unity.

The table below summarizes the salary base for Hungarian judges over the last 10 years, compared with the inflation and the average exchange rate of EUR/HUF in the examined period.

Salary base of Hungarian judges, 2016-2026*

Period (based on the relevant Hungarian Central Budget Act)	Salary base (HUF) (based on the relevant Hungarian Central Budget Act)	The increase of the salary base compared to the previous period (%)	Inflation (%) (tudastar. money.hu 2024)	Annual average EUR exchange rate (mnbkozepar folyam.hu)	Salary base (EUR)
01.01.2016.-09.30.2016.	391.600	-	0,4	311.46	1257
01.10.2016.-12.31.2016.	411.180	5	0,4	311.46	1320
01.01.2017.-12.31.2017.	431.740	5	2,4	309.22	1396
01.01.2018.-12.31.2018.	453.330	5	2,8	318.87	1422
01.01.2019.-12.31.2019.	453.330	0	3,4	325.35	1393
01.01.2020.-12.31.2020.	453.330	0	3,3	351.17	1291
01.01.2021.-12.31.2021.	507.730	12	5,1	358.52	1416
01.01.2022.-12.31.2022.	566.660	11,6	14,5	391.33	1448
01.01.2023.-12.31.2023.	566.660	0	19,5	381.95	1484
01.01.2024.-12.31.2024.	566.660	0	5,0	395.20	1433
01.01.2025.-12.31.2025.	651.660	15%	3,5	404.31	1612
01.01.2026.-	716.830	10%	not available yet	not available yet	

*Edited by the author.

The last two lines of the Table show that the Legislator increased the remuneration of judges – compared to the previous period – with 15% in 2025, and with 10% in 2026, which is the result of an agreement signed on 22 November 2024 by the Ministry of Justice, the National Judicial Council (hereinafter: NJC), the National Office for the Judiciary and the Curia. Under this quadripartite agreement, judges and judicial employees receive salary increases in three stages between 1 January 2025 and 1 January 2027, so another 15% increase is expected in 2027. This would mean an increase of around 45.5% in judicial salaries (obt-jud.hu, 2024).

As has been already mentioned, the IBA in its Minimum Standards of Judicial Independence said that judicial salaries should be regularly adjusted to account for price increases, and the so-called Montreal Declaration also emphasizes that the salaries of judges should be regularly adjusted to account fully for price increases. The CCJE also considered in its 1. Opinion that it is generally important to make specific legal provision guaranteeing judicial salaries against reduction and to ensure at least *de facto* provision for salary increases in line with the cost of living.

The Table above shows that the salary base for judges has not changed in 2018-2020 and 2022-2024. Considering that inflation in Hungary was 14.5% in 2022, 19.5% in 2023, 5% in 2024, and 3.5% in 2025 (tudastar.money.hu, 2026) the real value of judges' remuneration had declined by nearly 40% in recent years. The table also shows that several times in the last 10 years the remuneration of judges has been devalued for years due to the weakening of the HUF, which can be seen from the annual average exchange rate of EUR/HUF provided in the 5. column of the Table. So, if we convert HUF into EUR, the problem is even more obvious and we can see two things at once: firstly, judges get approximately 355 EUR increase during the last decade, which means 35 EUR/year, indicating approximately 3 EUR/month; secondly, judges' salaries have decreased 3 times in the last 10 years (highlighted in bold in the 6. column of the Table). It means that the pay rise provided to judges in 2016-2018 and in 2021-2022 could not eliminate the effects of inflation, and it could not stop the erosion the real value of judicial salaries.

The fact that the salary of Hungarian judges is inadequate has been confirmed by the European Commission, whose 2024 Rule of Law Report states that in Hungary, due to high inflation, the level of judges' remuneration has continued

to deteriorate (Country Chapter, 2024, p. 1, 10), which means – from my point of view – that not only has the financial situation of Hungarian judges been dismal for the last 5 years, but it also has been challenging from economical aspect for years. The 2022 Evaluation Report is based on 2020 data but shows the differences in the remuneration of judges in Europe. In this context, it is perhaps sufficient to note that, according to this report, Hungarian judges' salaries were the lowest in the EU in 2020 (CEPEJ Evaluation Report, 2022, 80).

The CJEU stated in Joint cases C-146/23 and C-374/23, and case C-372/24, when determining the remuneration of judges it is required to take into account the socio-economic context of the Member State concerned, in other words, its economic, social and financial situation. From that point of view, it is appropriate to compare the average remuneration of judges to the average salary in that State.

That's why it is worth noting that while judicial salaries have not risen in Hungary in the years 2019-2020 and 2023-2024, the mandatory monthly 'minimum wage' payable to full-time employees has increased in every year in the last decade. Compared to the previous years it has risen with 5.7% in 2016, 14.86% in 2017, 8.2% in 2018, 7.9% in 2019, 8% in 2020, 3.9% in 2021, 19.4% in 2022, 16% in 2023, 15% in 2024, 8.9% in 2025, and 6.9% in 2026 (net.jogtar.hu, 2026)

I would like to remind the respected reader of the conflict-of-interest rules, which means that during their terms of office, judges – not just in Hungary, but in many countries – may not hold membership in any political party and may not engage in political activities, may not hold any executive office in a business association, cooperative association or cooperative society or membership requiring personal involvement, may not engage in any other gainful activities except for scientific, educational, coaching, artistic activities, or copyrighted literary, editorial and design activities. So, due to the strict conflict-of-interest rules, judges must support themselves and their families from their judicial remuneration, unlike, e.g. lawyers, for whom the conflict-of-interest rules are not so strict, and who can earn income from other legal activities, thus increasing their monthly income and the amount they can spend on living. It is therefore possible for a judge to earn an income from other activities next to his/her judicial work, but this requires extra time and energy in addition to the difficult decision-making task and, in some cases, to the detriment of family life.

In view of all this, one of the most challenging issues relating to judicial salaries concerns cost-of-living increases, since the remuneration of judges has not followed the upward trend of price increase of almost every foodstuffs, including flour, sugar, oil, milk, eggs and bread (statisztika.mnb.hu, 2025).

This problem has been identified by the Hungarian judicial government and is visibly trying to resolve it. Though, this quadripartite agreement intended to be the solution caused an uproar among judges because they think it was a bargain to the reform of the Hungarian Judicial system. The NJC at its meeting on January 15, 2025, declared this quadrilateral agreement as invalid (obt-jud.hu, 2026).

Summary and final thoughts

Remuneration of an independent judge must be commensurate with his/her responsibilities and the fact that he/she personally carries out the judicial function defined in the Constitution, as well as the standard of living and social situation in the country where he/she carries out his/her functions.

From my point of view, it can be declared that the Hungarian system meets the requirements of the CJEU, since it is objective, foreseeable, transparent and stable (C-146/23 and C-374/23, 56, C-372/24, 24). Moreover, the Hungarian Legislator did not breach Section 169 para 2 of Judges Act, since it had not explicitly reduced judicial salaries, nor had passed any measure that discriminate judges economically, what is more, it made steps to resolve the problem. But, as we could see in Section 5, unfortunately those pay rises which were given by the Legislator through the last decade, cannot be considered as cost-of-living ones, because the real value of judges' salaries still shows a decreasing tendency. So, we can say that the Hungarian Legislator failed to bring judges' salaries in line with the rising cost of living. This ultimately means that the Hungarian system does not meet the international expectations discussed in Section 4.1. What is more, it means that despite section 35 para 4 of Act CLXII of 2011 on the Legal Status and Remuneration of Judges which states that judges are entitled to adequate payment, they don't get it.

Without a respectable level of remuneration receipt by judges, which should be proportional with the importance of the functions they carry out, the judicial independence could be undermined and consequently, individuals' fundamental and procedural rights are impeded noting that while money is important, it is not all that matters.

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