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The Schadl–Völner case and the battered independence of Hungarian courts

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The Hungarian judiciary has been waiting in vain for nine months for their leaders to clarify their role in one of the most serious corruption scandals of recent years, the Schadl–Völner case, involving György Schadl, the President of the Hungarian Chamber of Judicial Officers, and Pál Völner, a State Secretary of the Ministry of Justice. György Senyei, the President of the National Office for the Judiciary (NOJ) confronted his fellow judges with the news that he classified the documents of the respective internal investigation. Members of the National Judicial Council (NJC), which has been consistently advocating for the clarification of the events, are targeted by a heavy smear campaign led not only by the government propaganda media but also the government itself.

By classifying the results of the internal investigation carried out in the Schadl case, Senyei did not only fully ignore the legitimate request of about three thousand fellow judges, but also reinforced the worst assumptions. Instead of taking all possible steps as NOJ President for the full investigation of the Schadl–Völner case, he rather barred even the possibility of clarifying what happened.

The Hungarian judges, who must work in an extremely centralized organizational structure that lacks control mechanisms, could not do much against that arbitrary decision apart from voicing their [outrage](#). Members of the NJC, the constitutional body responsible for the supervision of judicial administration, attempted to use all available means in order to clarify what had happened, but to no avail. The consequences of the case, however, must be borne by the judges in the first place.

Even if the court leaders concerned may thus get away without being held personally accountable, judicial independence will suffer irreparable harms: the consequences entailed by the conduct of court leaders – without the necessary clarifications – will tarnish the image of the organization of the judiciary as a whole.

A brief news story with long-term effects on the reputation of the judiciary

It was published as a [brief news story](#) in the summer of 2022 that NOJ President György Senyei, classified the outcome of the internal investigations that was ordered earlier concerning the threads of the Schadl–Völner case related to the courts. The news was brief, but its significance was enormous with regard to the assessment of the independence of the Hungarian judicial system. This has been the first case since the reform of the court system in 2012 when the shadow of a corruption case is directly cast over the most powerful leaders of the organization of the judiciary. It concerns persons who, by means of their positions held, represent the judicial organization as a whole: the NOJ President and the President of the Metropolitan Regional Court, the court that employs the greatest number of judges in the country. In case they cannot clear themselves, suspicions of unacceptable intertwining will not only haunt their future career but may denigrate the judiciary as a whole.

If we take even just a little closer look on the Schadl–Völner case, it becomes immediately apparent that the steps taken for the clarification of the case were merely bogus measures. There has not been any genuine intent for a moment to launch an independent and thorough investigation to clarify

1. whether it is true that György Schadl, currently in pre-trial detention for charges of corruption, has contacted the NOJ President with a request to remove a judge from her position, as raised as a possibility by the investigation documents;
2. whether it is true that the NOJ President, instead of showing the door to György Schadl, has organized a personal meeting for him with the President of the Metropolitan Regional Court, as it is suggested by the investigation documents; and
3. whether Péter Tatár-Kis, President of the Metropolitan Regional Court, actually said the statement recorded in the investigation documents that “he was unable to fire the judge, but he could revoke her appointment as group leader, and could achieve that she feels at unease at her workplace”?

Unfortunately, the fact that the documents have been classified does not exactly suggest that the investigation came to satisfactory conclusions regarding the above questions.

Leaders between themselves

The prosecution brought charges against György Schadl, President of the Hungarian Chamber of Judicial Officers (court bailiffs) in October 2021. According to the indictment, Schadl, as part of his [links of corruption](#) established with Pál Völner, the then State Secretary of the Ministry of Justice, regularly used to give cash to the politician as undue advantage, who, in turn, made use of his competence deriving from his position as deputy minister according to the interests of the person offering the bribe to him. As indicated in the [investigation documents leaked](#) in January 2022, György Schadl contacted the NOJ President in June 2021 with the aim of attaining the removal of a judge from position. The judge concerned, who later recognized herself from the newspaper accounts, was Krisztina Izsai. Schadl was unable to bring through his intentions in the face of courts due to a position issued by Krisztina Izsai as the head of the Group for Non-contentious Matters of the Central District Court of Pest. According to transcripts of wiretapped recorded conversations, Schadl informed an acquaintance on the telephone that

“[he had] been to Senyei and [was] going to the President of the Metropolitan Regional Court Wednesday morning so that [\[judge Krisztina Izsai\] would be fired, because that \[was\] outrageous](#)”, and that Senyei “[had called] the President of the Metropolitan Regional Court immediately, telling him that he should meet Schadl”.

According to the summary of the National Protective Service, at the meeting that followed, Schadl asked from Péter Tatár-Kis, President of the Metropolitan Regional Court, to fire the judge, and as a response Tatár-Kis informed Schadl that

“he was unable to fire the judge, but he could revoke her appointment as group leader, and [could achieve that she feels at unease at her workplace](#)”.

An attempt to influence?

The story in the leaked investigation documents raised the most serious suspicions possible that can be raised in connection with a court: an external person, to promote his own case, intended to attain that a judge be treated unfavorably by a court leader because of her work, and the court leader informed this external person angling for undue advantage about the available possibilities.

Taking into account the importance of the case, the NOJ President could have reasonably been expected to publicly and categorically reject all attempts of external influence and to dismiss all concerns with regard to any possibilities of internal influence. However, instead of prioritizing the protection of the reputation of the courts, Senyei tried to explain his [involvement](#) in the first place by alleging that he referred Schadl to Péter Tatár-Kis because the President of the Hungarian Chamber of Judicial Officers had a complaint concerning a judge working at the court lead by him. In addition, he alleged that Tatár-Kis duly examined the complaint, but no information may be given publicly about the examination or about its conclusions.

By doing so, Senyei successfully turned public attention from himself to Péter Tatár-Kis, the other court leader concerned.

The powerful Tatár-Kis

Péter Tatár-Kis, President of the Metropolitan Regional Court is one of the most important leaders within the organizational structure of the judiciary due to his position. The Metropolitan Regional Court is the regional court that is most significant in size, that employs the most judges and that adjudicates the most cases in the country. Only in 2020 more than 300,000 cases were filed with the Metropolitan Regional Court and its district courts (which amounts to almost one fourth of all court cases in Hungary). At the end of 2020 Tatár-Kis exercised employer's rights over 737 judges (almost one fourth of all members of the Hungarian judiciary).

It is no coincidence that there was a general outcry among judges during the NOJ Presidency of Tünde Handó when she consistently declared the judicial applications for court leader positions at the Metropolitan Regional Court unsuccessful. Tatár-Kis was placed at the top position of the Metropolitan Regional Court immediately after Handó declared the application procedure for the post of court president unsuccessful in 2019 for the third time in a row, despite the fact that the plenary conference of judges supported the application of Viktor Vadász, then NJC member, by 71% of the votes cast.

The intensification of the power struggle over the biggest judicial forum became apparent when Handó, against that background, filled the vacant post of the president with Péter Tatár-Kis, brother-in-law of Zoltán Kovács, [State Secretary of the Cabinet Office of the Prime Minister](#), whose advancement within the judicial hierarchy contains a series of turns that are noteworthy in all respects.

On the fast track

Péter Tatár-Kis used to work as a judge at the smallest regional court of Hungary, the Balassagyarmat Regional Court. In 2018 he applied for the post of president at the Balassagyarmat Regional Court, but his application failed to obtain the majority support of the judges in the organization. Finally, Handó declared that application procedure unsuccessful too, and then – ignoring the opinion of the judges – [put](#) Tatár-Kis in the vacant post of court president for a period of one year, until 31 October 2019.

However, in the summer of 2019, a few days after having declared the application procedure in which Viktor Vadász applied for the court president position at the Metropolitan Regional Court unsuccessful, she unexpectedly terminated Tatár-Kis's mandate in Balassagyarmat [on a Friday](#) with immediate effect. On the very same Friday, 14 June 2019, she ordered that from next day on – [from Saturday](#), that is – Tatár-Kis should serve as a judge appointed to the National Office for the Judiciary.

Then, she terminated his latter mandate [with effect from Sunday](#), so that Tatár-Kis could assume the position of interim court president as a judge appointed to the Metropolitan Regional Court [from Monday](#) already.

This is certainly a high-gear advancement. The NOJ President catapulted the brother-in-law of Zoltán Kovács, a secretary of state into the top position of Hungary's biggest court in just one weekend by circumventing two application procedures at the same time.

The wigwagging decisions adopted for the purposes of the maneuver above authentically show the excessive arbitrariness of Handó's activities as administrative leader and the possibilities for abuse facilitated by the long-known but unaddressed loopholes in the Hungarian legal provisions.

The fast-track as presented above was available for the NOJ President under the act on the legal status of judges, and the case of Tatár-Kis was not the only one in which Handó made use of it. She used the very same method – i.e. the [evasion of the application procedure](#) –when the brother of Gergely Gulyás, the Minister heading the Prime Minister's Office, was transferred from a district court to a [regional court](#) after a less than one month long service in the NOJ in the autumn of 2018.

These fast-tracks remain available for the NOJ President, and so transfers without any justification may be used to secure a higher position for any judge without a due application process.

Initiate-revoke-deny, sign-deny-report

Péter Tatár-Kis began his mandate as president of the Metropolitan Regional Court in the summer of 2019. At one of the first conversations held publicly with him he [declared](#): “for me the most urgent task is to get to know the organization, because as a judge serving in Balassagyarmat, I had little direct information about the Metropolitan Regional Court”.

Tatár-Kis had to clarify things the first time during his mandate as court president in October 2019, when [he initiated disciplinary procedure against judge Csaba Vasvári](#), who referred a case to the European Court of Justice for a preliminary ruling. Tatár-Kis subsequently [complemented](#) his disciplinary initiative on 21 November 2019, then, one day later, he [revoked](#) it, “for the purposes of protecting the dignity of the judiciary”. Finally, he [denied](#) that anything ever happened. Since Tatár-Kis was unwilling to make publicly available the [documents of the disciplinary procedure](#) that met with serious disapproval from judges, the Hungarian Association of Judges (MABIE) published the full documentation on its website in the spirit of transparency.

Based on the above, it is hardly debatable that the regional court president was not telling the truth.

Tatár-Kis was compelled to come up with similarly embarrassing excuses concerning a [letter of thanks](#) composed for the occasion of the end of term of Tünde Handó, former NOJ President, which became famous for its tone. Although the version of the letter made public in November 2019 clearly bears his signature, in his speech held on the occasion of him being elected as court president, Tatár-Kis publicly [denied](#) having signed the letter. The prosecution services [initiated an investigation](#) in the matter of the possible forging of his signature, with results unknown up until the present day.

The court president remains silent

In January 2022, one and a half years after his election as court president, Tatár-Kis found himself again in a situation begging for explanation from his behalf, this time in a case that was more embarrassing

and more severe than all previous ones, concerning the leaked investigation documents of the Schadl–Völner case. Following the news on the case being published, Tatár-Kis admitted in a statement circulated within the internal communications network of the court system that he [indeed met with](#) the president of the Hungarian Chamber of Judicial Officers. He denied that Schadl had approached him with a request to remove a judge from her position. However, no information was given by him or NOJ President György Senyei on what had actually happened, what kind of complaint Schadl had made, and what steps Tatár-Kis had taken as a result.

It is no wonder that the two statements made by Senyei and Tatár-Kis were not sufficiently satisfactory for the members of the judiciary and that clarifying the details of the case became important. As the president of the biggest Hungarian association of judges, MABIE put it:

“the members of the judiciary, the society of judges as a whole have not been subjected to such a wind of shock, because I do not dare to refer to any facts yet, not once, during the last decade or so. This has affected the society of judges in a very painful manner and might have even degraded their social esteem. Obviously, it is for a reason that the society of judges is eager to know what the outcome of the case will be.”

The court president can “achieve it”

For the judges, the most worrying sentence in the leaked written records must have been the one according to which Tatár-Kis informed György Schadl that “he could achieve that [judge Izsai] feels at unease at her workplace”. This is because several judges already had direct and personal experiences of that. On the meeting of the National Judicial Council of 2 February 2022, NJC member Tamás Matusik – who, at that time, happened to have no other employer than Péter Tatár-Kis mentioned in the news on the case – said that it had been unsettling to read the article published in the press:

“[it was] unsettling for me to read that, because I know what it feels like when the life of a group leader is made uncomfortable, unpleasant by the president of a regional court. Actually, that exact same thing happened to me in 2018 and 2019.”

Thereafter, Matusik explained how his everyday life as a practicing judge was made uncomfortable, and what discriminative measures were applied against him as NJC member by the management of the regional court due to his confrontation with Tünde Handó. In addition to the refusal to nominate him for an award and the cancellation without reasoning of a request that he gives an English-language presentation, he also mentioned the instance when Tatár-Kis failed to appoint him as instructing judge to assist a beginner judge in spite of the proposal of the court concerned, or when his name was the only one on a signature sheet printed in red letters. Finally, Matusik concluded:

“If those things penetrate professional life to such an extent, and affect the activity of leaders, the jurisdictional work of judges, if those things take place based on influence and not according to a lawful order and lack any professional basis, then they do harm and affect the independence of the judiciary.”

Fake hustle

There was only one lawful procedure that could have suitable to effectively and speedily investigate Tatár-Kis’s responsibility: the disciplinary procedure.

The proof of misconduct is not a prerequisite for initiating a disciplinary procedure against a judge. In the case of Péter Tatár-Kis the information contained in the investigation documents clearly provided sufficient basis for initiating the disciplinary procedure, and the procedure in this case would have served expressly the purpose of clarifying whether any misconduct had taken place.

However, there is only one person who is entitled under the law to initiate a disciplinary procedure against Péter Tatár-Kis: the NOJ President himself, and only within strict deadlines. Although, taking the date of publication of the related press news into account, the NOJ President should have initiated the disciplinary procedure no later than 21 April 2022, it remains unclear until the present day whether that happened or not. The most probable scenario is that no disciplinary procedure of any kind has been launched against Péter Tatár-Kis, in which case the opportunity has been lost forever to clarify the case in front of an independent and impartial body.

On its meeting held on 2 February 2022, the NJC urged the NOJ President to initiate a disciplinary procedure against Tatár-Kis in a [public statement](#) adopted unanimously. In their statement, NJC members drew attention to the fact that in case no disciplinary procedure would be launched,

“the lack of response to an arbitrary managerial conduct could have an unfavorable, chilling effect on the members of the Hungarian judiciary, it may pose a threat of rendering their situation impossible in terms of professional work and livelihood. That amounts to a direct and genuine threat to independent judicial activity free from external interference.”

As a response to the urging statement, the NOJ President informed the public on 4 February 2022 that he ordered that [a comprehensive targeted administrative investigation should be carried out](#) with respect to the Metropolitan Regional Court and all the district courts operating within its jurisdiction regarding the full calendar year of 2021. According to the decision published, the investigation was also aimed at clarifying why, in what form and under what procedure Schadl made a complaint related to the conduct of the judge concerned and serving as group leader. The deadline for drawing up the investigation report was set by Senyei as 15 April 2022, Good Friday, thus he would have had no more than two days to consider initiating a disciplinary procedure following the receipt of the report.

The ordering of the investigation roused uniform feelings of displeasure among NJC members. Its members signaled to the NOJ President that the step taken had not met their expectations and that they considered the ordering of the targeted investigation unconvincing. One NJC member referred to the procedure ordered as a smokescreen, another member was of the view that if there was a well-defined concrete problem it was inconceivable why the operation of the whole regional court during a full calendar year needed to be reviewed:

“What difference does it make how a given president at the Kispest District Court or the Újpest District Court handled complaints within his or her competence, in terms of drawing conclusions on what happened in this particular case of the president of the Metropolitan Regional Court?”

In addition, NJC members did not understand either why such a relatively long period of time had to be allowed for the preparation of the investigation report. Senyei dismissed all objections by claiming that the NJC has no powers of supervision of any kind with respect to the administrative investigation ordered by him. The judge concerned by the case, Krisztina Izsai drew a bitter conclusion: “those sentences, the sentences that became public from the investigations documents and were uttered so, I assume, were recorded in a public document, and therefore, raised questions in me, to which questions I will probably never get nor give any answers.”

Senyei’s mechanical puzzle

It was against this background that no information was provided for judges for months neither about the outcomes of the ordered targeted internal investigation or whether any disciplinary procedure had been initiated against Péter Tatár-Kis. No wonder that after a waiting time of almost half a year it hit NJC members in the face when György Senyei informed them on the NJC meeting of 13 June 2022 that he could not give them any information about the outcome of the targeted internal investigation because he had classified the report in its totality.

The NOJ President classified the full documentation of the internal investigation as “intended for limited distribution”, which, under the law, means that access may be granted to the outcomes of the internal investigation in 2037 the latest. There are three important factors to be considered with regard to the classification:

1. First, under the law, the NOJ President shall be entitled to decide on the classification individually and no legal remedies are available for judges nor judicial bodies (such as the NJC) against that decision.
2. Second, also under the law, classification may be ordered, among other cases, for the purposes of “ensuring the smooth functioning of the administration of justice”. Accordingly, the regulatory framework that can be applied by the NOJ President creates a perfect Catch 22: if the outcome of the internal investigation uncovers an appropriately severe problem, for example, an intervention of such scale which may shatter the smooth functioning of the administration of justice, it may be covered up by means of classification.
3. Finally, under the law, access may be granted even to classified data if access is justified for the purposes of performing state or public duties. It is the public duty of NJC members to supervise the NOJ President. In that context, the law explicitly allows NJC members to consult documents produced and to request information and requires that NJC members maintain the confidentiality of classified data.

In spite of all that, the NOJ President has refused from the beginning to grant the possibility for NJC members to consult the documents of the case and promised that he would provide the detailed legal reasoning of his decision later in writing.

The classification of the classification

Facing the classification, the NJC called upon the NOJ President on 6 July 2022 to send the NJC the decision by means of which the outcomes of the targeted internal investigation were classified as “intended for limited distribution” and the underlying proposal for classification, and to grant access to documents to NJC members who request so. As the NOJ President did not grant the request until September 2022 and failed to provide a detailed legal reasoning of his decision (although he promised to do so), the NJC was compelled to reopen the discussions on the case. The members reminded the NOJ President that the NJC, “independent from the fact whether the judge concerned had to face any actual retaliation later or not, considers it unacceptable if a court leader actually consulted about ‘rendering the situation of a judge impossible’ or met anyone for that purpose”. They asked again the most essential questions:

- What prevents granting access for any NJC member to the outcomes of the internal investigation?
- Why did the NOJ President fail to inform the judicial public about the outcomes of the targeted internal investigation?

- Did any suspicion arise in connection with the conduct of Péter Tatár-Kis that could serve as a ground for initiating a disciplinary procedure?

Senyei, once again, answered the questions by claiming that the issues concerning the targeted internal investigation fall outside the scope of the NJC's competence and, accordingly, its members should not have access to the concerned documents, "in the absence of a legal basis under public law necessary for fulfilling the request".

Ping-pong on a normative basis

The emerging checkmate with regard to access to the documents has arisen according to a well-known choreography: the NJC as supervisory body intended to access the documents, but the supervised NOJ President refused to grant access, and thus successfully prevented the NJC from exercising its supervisory functions. As pointed out by judge Csaba Vasvári: "the present conduct of the NOJ President is yet another clear illustration of the extent to which the NJC is bereft of means to challenge the wrong legal interpretation and/or the silence of the NOJ President".

Having received the answer pointing at the lack of competence, the judges made a final effort to convince Senyei about the need of transparency in the spirit of judicial independence and cooperation.

"The heart of the issue concerns whether the moral backbone of court leaders and, indirectly, of the judicial organization has suffered any harm or not. I am of the view, that hardly any other question may be more important than that. The members of the judiciary are quite rightly curious to know, and we, the National Judicial Council are one of the representatives of the members of the judiciary, and in addition, this body happens to be the one overseeing the central administration activities of the NOJ President",

said Judge Csaba Vasvári, NJC member. "We have the same interests and the same goals, we are all working for the same courts within the NOJ and the NJC. [...] we are all in the same boat, and what is happening right now, this confusing and murky situation, is the worst that can be, for sure."

Judit Oltai, President of the MABIE reminded that, for the sake of maintaining trust in the members of the judiciary, judges must not only be independent, but also must appear so: "I am hereby asking the NOJ President, forwarding him the wish of judges in this regard, to find a way to refute that that statement [by Schadl] was ever made."

It was until October 2022 that NJC members waited for Senyei to meet their request to be granted access to the documents of the case. On 5 October 2022 they filed a [legality notification](#) against the NOJ President. The legality notification is the most severe tool in the toolkit of the NJC. As opposed to what its name would suggest, it warns about the unlawful conduct of the NOJ President.

Retaliation

A few days after the publication of the written records of the above NJC meeting, a smear campaign of formerly unseen intensity was launched against two members of the NJC who act as representatives of the NJC before the public. The smear campaign started first in the government propaganda media, but later, in a more and more overt way, the government joined in directly too.

The aim of the smear campaign is to raise doubts concerning the independence of judges and NJC members Tamás Matusik and Csaba Vasvári, and to render their functioning as judges impossible. The

campaign appears to be linked to their visit paid to the Ambassador of the United States in their capacity as NJC members.

However, the real aim must certainly be to discredit the functioning of the National Judicial Council in the eyes of the widest possible public, and to divert attention from the fact that the investigation into the most serious corruption case of recent years – which might not only concern György Schabl, a new symbol of corruption, together with the deputy of Justice Minister Judit Varga, but which also raises serious questions regarding the role of Péter Tatár-Kis, brother-in-law to State Secretary Zoltán Kovács and regarding the protection of the independence of judges – was rendered impossible with the help of György Senyei, who is responsible for the administration of the entire judiciary.

This article is the translation of the Hungarian Helsinki Committee's blogpost originally [published](#) in Hungarian.