

BLACK FRIDAY AT HUNGARIAN COURTS

Sweeping public protest of Hungarian judges against a political deal undermining judicial independence

6 December 2024

Executive summary

22 November 2024 was Black Friday for the Hungarian judiciary. Representatives of the three highest judicial administration bodies, the Kúria President, the President of the National Office for the Judiciary (NOJ) and the President of the National Judicial Council (NJC) signed a so-called ‘Agreement’¹ with the Hungarian government, represented by the Ministry of Justice (MoJ), according to which – in exchange for unguaranteed promises regarding a long-overdue salary raise – judicial leaders undertook to cooperate with the MoJ in the adoption of undefined overall structural judicial reforms capable of further undermining judicial independence. Both the circumstances of the adoption of the ‘Agreement’ and its content indicate that the Hungarian government put undue pressure on judicial leaders, who opted for giving up guarantees of judicial independence in a political bargain. While the cooperation of the Kúria President² and the NOJ President – both political appointees of the ruling majority – with the MoJ was not entirely surprising, it came as a shock to Hungarian judges that the NJC not only joined them but took the lead in process. The conclusion of the ‘Agreement’ incited unprecedented public protest among Hungarian judges and judicial staff in the form of hundreds of sharply formulated critical opinions published on the website of Hungarian judicial associations. In just over a week, the sweeping protest of Hungarian judicial employees had its first consequence: the NJC President resigned³ acknowledging personal responsibility in the NJC’s decision negatively impacting the independence of the judiciary. It however still needs to be seen whether the Hungarian government will dare to refer to the ‘Agreement’ as political authorisation for implementing its agenda on reforms against the continuing protest of Hungarian judges, and whether it will use the consent of its own political appointees – the Kúria President and the NOJ President – to try to legitimise its moves to further undermine judicial independence.

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¹ See the ‘Agreement’ in Hungarian here: https://obt-jud.hu/sites/default/files/sajtokozlomenyek-mellekletek/1183_001.pdf

² See on the appointment of András Zs. Varga as Kúria president through personalised legislation at <https://helsinki.hu/en/the-appointment-of-andras-zs-varga-not-even-the-un-was-provided-with-an-explanation-by-the-government/>

³ See: <https://hu.euronews.com/2024/12/04/lemondott-elnok-orszag-os-biroi-tanacs-szabo-peter-obt-interju-jogallamisag>

Introduction

The present paper provides a summary of the extremely fast-paced developments around the planned – but still not detailed – judicial reforms in Hungary, explaining the antecedents and the significance of the unprecedented public protest by Hungarian judges and judicial staff. Our summary explains (i) how the Hungarian government exerted perilous and undue financial pressure on the judiciary pushing it to the brink of interoperability [see below under [Section I.](#)]; (ii) how the financial pressure was converted into political pressure on the NJC from one day to another [see below under [Section II.](#)]; (iii) why the ‘Agreement’ concluded between judicial leaders and the MoJ and the undefined overall reforms proposed can undermine judicial independence [see below under [Section III.](#)] and (iv) why the sweeping public objection of otherwise silent Hungarian judges should be deemed as a red light for the Hungarian government in advancing its agenda on reforms along the political authorisation obtained through the ‘Agreement’ [see below under [Section IV.](#)].

I. Extreme undue financial pressure on the Hungarian judiciary

The primary context of the overall reforms advanced by the Hungarian government is the perilous financial crisis of the Hungarian judicial system, which pushed the judiciary to the brink of collapse. Below, we explain how the ruling majority first financially exhausted the Hungarian judiciary making use of the deficiencies encoded in the Hungarian legislation and how the Hungarian government abused its position to convert the persisting financial pressure into open political pressure on the NJC.

Under Hungarian laws, the salary of judges and judicial staff should be defined on a yearly basis through the annual Act on the Central Budget. Except for one provision that prescribes that the minimum base for judicial salaries may not be lower than that of the previous year,⁴ the legislation completely lacks guarantees for the financial independence of the judiciary. As pointed out by complaints submitted to the European Commission by more than a hundred judges and judicial staff, the Hungarian legislation on the remuneration of judges and judicial staff is contrary to the norms of the European Union and therefore permanently and systematically violates the institutional independence of the judiciary by, amongst others, not providing for a yearly indexation that is not dependent on the will of the executive and legislative branches of power. This means that the ruling majority can directly exert pressure on the judiciary by simply not raising judicial salaries. Making use of this deficiency encoded in the laws, the ruling majority has kept the salary base of judges unchanged since 1 January 2022, despite the fact that the inflation in Hungary reached 40% during the same period.⁵

By the fall of 2024 the salary base of judges was equalling HUF 566,660 (ca. € 1,400)⁶ jeopardizing the functioning of courts and the independence of the whole justice system.⁷ All judicial representatives, the NJC, the Kúria President and the NOJ President unanimously agreed that a 35% salary raise is inevitable.⁸

⁴ The provisions of Chapter XII and Annexes 2 and 3 of the Bjt., especially Section 169(2) of the Bjt.

⁵ The inflation rate was 14.5% in 2022 and 17.6% in 2023 and has averaged 4% so far in 2024. See: <https://www.ksh.hu/gyorstajekoztatok/#/hu/list/far>

⁶ Based on which the lowest judicial salary in Hungary is gross HUF 821,657 per month (which is net HUF 3,415 per hour, equivalent to ca. € 8 per hour) and the lowest salary for a member of judicial staff is the minimum wage for skilled workers

⁷ See the report provided by the Hungarian Helsinki Committee to the UN SR under the last call for submissions: <https://helsinki.hu/wp-content/uploads/2024/07/UN-Special-Rapporteur-on-the-Independence-of-Judges-and-Lawyers.pdf>

⁸ See the minutes of the NJC meeting held on 2 October 2024: https://obt-jud.hu/sites/default/files/u/lesekJegyzokonyv_2024.10.02.pdf

Shortly before the submission of the Bill for the Central Budget, the perilous financial pressure was converted into political pressure on the NJC.

On 16 October 2024, the NJC President and the Minister of Justice signed a ‘Statement’⁹ in which they declared their “common will to carry out a complex series of negotiations” covering, in addition to improving the financial standing of judges and court staff, “matters pertaining to access to justice and enhancing the effective operation of the judiciary”.

On 11 November 2024, the Minister of Finance submitted the Bill on the Central Budget for the year 2025 containing the exact same salary base as in the former three years despite the fact that the budget-proposal drawn up by the NOJ President contained a 35% salary raise for 2025. By this move, the government not only (i) ignored the resolutions of the NJC urging a 35% salary raise with retroactive effect from 1 January 2024, (ii) disregarded the complaints of more than one hundred individual judges who turned to the European Commission signalling the violation of their financial independence and (iii) neglected the recommendation formulated by the European Commission in its 2024 Rule of Law Report,¹⁰ but also (iv) violated the obligation prescribed by Hungarian laws to include without any modification the amount proposed by the NOJ President in the central budget.

Immediately after the submission of the Bill on the Central Budget, the government made it clear that any salary raise will be subject to negotiations on structural judicial reforms, as already foreshadowed in the above mentioned, vaguely drafted declaration signed in October by the NJC President and the MoJ.¹¹

On 14 November 2024, Gergely Gulyás, the Minister leading the Prime Minister’s Office admitted that the Government granted authorisation to the Minister of Justice to negotiate with the Kúria, the NOJ and the NJC about a “*salary agreement acceptable to all*” in the coming days.

II. Political pressure to gain authorisation for reforms

On 18 November 2024, around 5 p.m., the NJC suddenly modified its agenda for the meeting to be held on 20 November 2024, including a new agenda item on the “*proposal of the Ministry of Justice for the conclusion of a quadripartite agreement*”¹² without disclosing the draft of the agreement. The agenda contained a warning to members that the documents related to the meeting – including the draft ‘Agreement’ – should be deemed as working documents and should not therefore be published until the adoption of the resolution. This warning precluded NJC members from consulting on the draft with judges or the wider public, as ‘working documents’ are confidential. Despite the high importance of the agenda and in addition to the fact that the meeting was not convened to the registered seat of

⁹ <https://obt-jud.hu/sites/default/files/sajtokozlemenyek-mellekletek/IM-OBT-Nyilatkozat.pdf>

¹⁰ European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Hungary*, https://commission.europa.eu/document/download/e90ed74c-7ae1-4bfb-8b6e-829008bd2cc6_en?filename%3D40_1_58071_coun_chap_hungary_en.pdf, p. 2.

¹¹ <https://www.szabadeuropa.hu/a/a-kormany-csomagban-targyaltatna-a-birok-fizetesemeleset-az-igazsagugyi-jogszabalyok-modositasaval/33199100.html>

¹² https://obt-jud.hu/sites/default/files/ulesek/Modos%C3%ADtott_napirend_2024.11.20.pdf

the NJC,¹³ the possibility for judges to participate at the meeting was limited (online participation was not facilitated for judges, in person participation was limited to a maximum of 50 persons).¹⁴

On 20 November 2024, the NJC passed a resolution in which it supported the conclusion of the 'Agreement' by a minimum majority, with 8-7 votes in favour, not more than 40 hours after the draft was disclosed to the members of the NJC.

Immediately after the adoption of the resolution, the Hungarian Association of Judges (MABIE) and Res Iudicata as judicial associations released a statement protesting against the decision and warning of a serious breach of judicial independence.

The statement published by MABIE claimed that *"the association's right to be consulted by the NJC on this issue became a formality, as the draft sent to the President of MABIE was not public until its discussion [i.e. the NJC session at which the decision on signing was taken, which meant that the President of MABIE could not discuss it with the association's membership]. [...] The judiciary does not have to, and cannot, provide a 'quid pro quo' in exchange for the salary raise, because even if the quid pro quo is only manifested in signing an agreement, this would violate the independence of the third branch of power. Supporting government plans for organisational restructuring should not be the price of a salary raise that the government itself recognises is necessary! [...] MABIE protests that the organisations representing the interests [of judicial employees] were not involved in the development of the concept of the changes outlined in the agreement, which fundamentally affect the whole organisation, and that MABIE was not provided with the opportunity to formulate a position, so the NJC decided to support the agreement without knowing the position of the representatives of the interests of judges and judicial staff. [...] The idea of a salary raise contained in the agreement is significantly different from the salary raise requested by the NJC and the NOJ, so supporting the agreement is a significant step backwards."*¹⁵ MABIE also requested the MoJ to *"involve the Hungarian Association of Judges in the drafting of legislation affecting the organisation of the judiciary and the legal status and remuneration of judges, because the association can credibly represent the interests of judges and court clerks and to inform the association of the preparation of structural changes affecting the organisation of the judiciary and of the professional and economic arguments on which they are based."*¹⁶

The statement published by Res Iudicata emphasised amongst others, that *"fair remuneration is one of the fundamental guarantees of judicial independence, and that it shall not be linked to conditions. We therefore find it unacceptable that the draft agreement's proposal for a salary raise, which is stretched out for a three-year period and remains below the rate of inflation of recent years, is included in the text as something that the government will only guarantee if the other elements of the reform are adopted. [...] We are convinced that the NJC exceeded its powers by adopting the Agreement, and we therefore call on the NJC President to refrain from signing the agreement and to initiate a genuine professional dialogue in order to develop a sound judicial reform."*¹⁷

¹³ The meeting was held at Gyula, falling cca. 200 km from the capital where the registered seat and the usual venue of NJC meetings is.

¹⁴ See: <https://obt-jud.hu/sites/default/files/sajtokozlemenyek-mellekletek/B%C3%ADr%C3%B3k-%C3%A9rtes%C3%ADt%C3%A9se-Gyulai-%C3%BCl%C3%A9sen-r%C3%A9szv%C3%A9telr%C5%91.pdf>. The Hungarian Association of Judges (MABIE) requested the NJC to provide a possibility for judges to attend online, but the request was disregarded by the NJC. <https://mabie.hu/images/A%20MABIE%20Elnoksegenek%20levele%20az%20OBT-hez.doc.pdf>

¹⁵ See: <https://mabie.hu/berivaslat/a-mabie-koezlemenye-az-obt-obh-kuria-igazsaguegyi-miniszterium-koezoetti-megallapodas-megkoetesrol>

¹⁶ See: <https://mabie.hu/berivaslat/a-mabie-koezlemenye-az-obt-obh-kuria-igazsaguegyi-miniszterium-koezoetti-megallapodas-megkoetesrol>

¹⁷ See: <https://resiudicata.hu/kozlemeny-a-birosagokat-erinto-megallapodasrol/>

On 21 November 2024, a former NJC President publicly claimed that the NCJ “has given up its independence when bowing to the pressure of the Minister of Justice and deciding to sign an agreement linking judicial pay rise to dangerous court reforms after secret fast-track negotiations.”¹⁸ The same day, the two judicial associations opened platforms for judges and judicial staff to protest [see below under Section IV.]

On 22 November 2024, the Kúria President, the NOJ President, the NJC President and the MoJ signed the ‘Agreement’ despite the strong opposition of judicial associations.¹⁹

Evidence for the palpable presence of political pressure exerted on the NJC was explained in detail by former NJC President and also expressly confirmed by the President of MABIE.²⁰

III. The ‘Agreement’ violates judicial independence

The ‘Agreement’²¹ violates judicial independence for several reasons.

(1) The mere fact that the Hungarian government linked the long overdue salary raise to the adoption of structural judicial reforms undermines judicial independence. Judicial salaries constitute a guarantee of judicial independence that must be provided without any further condition. Requesting consent to undefined overall reforms in exchange for granting the financial resources necessary for the functioning of the judiciary should be deemed as blackmailing by the Hungarian government. Until the cut-off date of the present briefing paper, the Hungarian government has not taken any measure to raise the salary-base of judges.

(2) The legitimacy of the ‘Agreement’ to advance reforms is illusory. The judicial parties signing the ‘Agreement’ do not represent the Hungarian judiciary and were not authorised by law to bargain with the Hungarian government with respect to different guarantees of judicial independence. The NOJ President is a political appointee leading an office mandated with the management of court administration, therefore cannot be deemed as representative of judges. The Kúria President, also a political appointee, is mandated to manage the Kúria, the apex court of Hungary (consisting of approximately a hundred judges), but does not in any way represent the whole judiciary. The NJC as the highest self-governing body of the Hungarian judiciary is mandated by the law to supervise the central administration of courts and does not hold any powers to waive guarantees of judicial independence for the benefit of the executive. None of the signatories hold powers to bargain with the Hungarian government on the adoption of undefined reforms. While all of them have powers to provide an opinion on proposed legislation concerning the judiciary, this power can only be exercised with respect to concrete legislative drafts.

(3) The ‘Agreement’ does not provide effective guarantees as to the urgently necessary salary raise. It contains vaguely formulated provisions that promise “the execution” of an average 48% salary raise throughout the next three years, disregarding at the same time that none of the signatories hold

¹⁸ See: https://x.com/TamasMatusik/status/1859490126155427965?t=ehnO_QDIR-MI44oisTkYew&s=19

¹⁹ See the statements of the NJC <https://obt-jud.hu/hu/tajekoztatas> and the Kúria President <https://kuria-birosag.hu/hu/sajto/kuria-kozlemenye-7>

²⁰ See the interview with Tamás Matusik at Partizán Média on 26 November 2024 <https://www.youtube.com/watch?v=XLipfNyXoPM> and the interview with Katalin Boros, President of MABIE <https://hu.euronews.com/2024/11/28/a-magyar-biroi-egyesulet-elnoke-ez-rendkivul-eros-politikai-nyomasgyakorlas>

²¹ See: https://mabie.hu/images/1183_001_megallapodas.pdf

powers to *de facto* execute the salary raise, as it falls in the exclusive competence of the Parliament to adopt the relevant legislation. In this respect, the ‘Agreement’ is not more than an empty promise on behalf of the Hungarian government instead of guarantees of judicial salaries that are commensurate with the dignity of the judicial profession and ensure the stable operation of courts.

(4) The ‘Agreement’ contains an express undertaking on behalf of the signatories to cooperate to achieve the government’s planned structural reforms outlined by the parties without any precedent and lacking key elements. The planned reforms affect all levels of the ordinary court system, radically alter the career of individual judges, envisage remarkable modifications as to judicial protection and the further increase of the weight of the Kúria within the ordinary court system.²²

IV. Public protest of Hungarian judges sweeps away the ‘Agreement’ and its consequences

On 21 November 2024, both Hungarian judicial associations – MABIE and Res Iudicata – published a call to judges and judicial staff, encouraging them to express their opinion on the ‘Agreement’ signed. Since then, until the closing date of the present briefing paper, judges, judicial bodies, judicial staff have continued to protest against the bargain made by the high judicial representatives. The statements published use words like “treason”, “humiliation”, “abuse”, “bribery”, “blackmail”, “starving the judiciary out”, “leashing”, a “slap in the face”, “bleeding out”, and even a “sneaky political game” and explain in detail why the ‘Agreement’ goes against the rule of law, the system of checks and balances and the independence of the judiciary. As the judges point out, the document is not the result of the fair negotiations of equal parties: the “discussion was unilateral”, and only the government’s will prevailed.²³

In the face of the unprecedented protest of Hungarian judges, on 2 December 2024, the NOJ President publicly admitted that the ‘Agreement’ lacks any binding force.²⁴

On 3 December 2024, the NJC convened an extraordinary meeting putting on the agenda a motion for the removal of the NJC President. Eventually the motion was not voted on, as Péter Szabó resigned from his position at the meeting (simultaneously maintaining his membership in the NJC),²⁵ after which he publicly undertook responsibility for the conclusion of the ‘Agreement’: “*I perceive, I*

²² According to the ‘Agreement’ the parties aim to enhance the effective operation of courts. In this respect they agree to provide “the possibility for judges with a high level of experience and excellent performance to continue to serve as judges until the age of 70, upon request and subject to objective eligibility criteria after reaching retirement age”. They agreed that it is necessary to “raise the current age limit to become a judge from 30 to 35 years, emphasising the value of experience in other areas of law, and requiring several years of practical experience”. The aim of the parties is to ensure that: “a) the primary duty of the Kúria is to ensure the uniformity of adjudication; b) appeal courts and regional courts should be carried out within properly distributed resources and organisational structure in particular with regard to the high workload of the Metropolitan Regional Court and the Budapest Area Regional Court; c) to standardise the workload of local courts, the operation of the local judge should cover the entire area of jurisdiction of the regional court, while retaining the local district courts within its organisational framework; d) [...] enable both the public and law students to be present online [at court hearings]; e) [...] in civil cases a detailed reasoning of the judgment is required only in cases where the parties are likely to exercise their right of appeal; f) the court competences related to registration of companies and other legal persons which are simple or which can be automated should be transferred to the executive.

²³ See a compilation of the letters by the Hungarian Helsinki Committee in English here: <https://helsinki.hu/en/judges-salary-is-a-public-matter-and-not-an-issue-of-personal-finances/>

²⁴ See: <https://24.hu/belfold/2024/12/02/senyei-gyorgy-interju-obh-obt-kormany-biro-illetmenyemeles/>

²⁵ See: https://obt-jud.hu/sites/default/files/ulesek/Osszefoglalo_2024.12.03.pdf

experience, that the majority of the judiciary is of the opinion that the agreement was wrong to sign. The consequence of all this is my resignation, and I acknowledge my responsibility for it.”²⁶

The strong protest of Hungarian judges not only paved the way towards restoring the independence of the NJC but also discredited the illusionary legitimacy of the ‘Agreement’ depriving the Hungarian government of the possibility to refer to the deal as ground for advancing the planned reforms.

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²⁶ See: <https://hu.euronews.com/2024/12/04/lemondott-elnok-orzagos-biroi-tanacs-szabo-peter-obt-interju-jogallamisag>