

## REPORT ON THE EXCHANGE AND SUMMARY

### Instructions:

1. The report must be sent to the EJTN ([exchanges@ejtn.eu](mailto:exchanges@ejtn.eu)) within one month after the exchange.
2. Please use the template below to write your report (recommended length: 4 pages).
3. Please write in English or French. Should this not be possible, the report can be written in another language but the summary must be in English or French.
4. Please read the guidelines for drafting the report (in Annex). Feel free to add any other relevant information in your report.
5. The summary shall contain a synthesis of the most important information of the report.
6. Please note that NO NAMES, neither yours nor the ones of the persons you met during your exchange, should appear in the report in order to ensure anonymity<sup>1</sup>. Initials can be used when necessary.

### Identification of the participant

Name: Dr. Haberland

First name: Stephan

Nationality: German

Country of exchange: Hungary

### Publication

**For dissemination purposes and as information for future participants in the Programme please take note that, unless you indicate otherwise, EJTN may publish your report in its website. In this case the report will remain anonymous and your name and surname will not appear. To this aim, please do not mention any names in the reports. Initials can be used instead.**

Please tick this box if you do not wish for your report to be published

### For completion by EJTN staff only

Publication reference:

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<sup>1</sup> To that purpose, the first page of this report will be taken out before any possible publication



## **Identification of the participant**

Nationality: German

Functions: Civil Judge

Length of service: 18 years

## **Identification of the exchange**

Hosting jurisdiction/institution: National Office for the Judiciary

City: Budapest and Szekszárd

Country: Hungary

Dates of the exchange: 22. Nov. - 4. Dec. 2015

Type of exchange:

one to one exchange

group exchange

general exchange

specialized exchange (please specify :         )

# REPORT

## I. PROGRAMME OF THE EXCHANGE

1. Our group of eight judges (one from the Netherlands, Spain, Italy, Latvia, Lithuania, Poland and two from Germany) stayed in Budapest for the first week. We visited several courts and other legal organisations such as the Constitutional Court of Hungary, the Curia (Supreme Court), the Prosecutor General, the Metropolitan Court of Budapest, Pest Central District Court, the Capital Administrative and Labour Court, the National Office for the Judiciary, the Hungarian Academy of Justice, the Office of Immigration and Nationality and the Commissioner for Fundamental Rights.

In these institutions presentations regarding several legal matters were given to us. In Metropolitan Court and Pest Central District Court we were also listening to court hearings in civil and administrative cases and obtaining a very interesting insight into the Hungarian legal system.

As part of the cultural programme we learned a lot about Budapest and Hungarian history by visiting the amazing Parliament, the House of terror (museum about the terror of the Hungarian fascist and the socialist regime) and several other sights.



2. We spent the second Week in the city of Szekszárd, capital of the county Tolna. Szekszárd has a population of approx. 34,000 and is situated in one of the most famous wine regions of Hungary.

In Szekszárd we visited the Regional Court of Szekszárd and the Penal Institution of Tolna County (prison). We also had three very interesting days in the District Court of Szekszárd, discussing national and european legal matters with the Hungarian judges and visiting trials regarding civil, family and criminal cases. At the Regional Court of Szekszárd we learned about mediation and the "open court project" in Hungary.

We also had a great winetasting in a local winery and went to the beautiful city of Pecs, the fifth largest city of Hungary.

## II. THE HOSTING INSTITUTIONS

Since we were visiting many different institutions I will focus on the following:

### 1. The National Office For The Judiciary (NOJ)

The exchange was organized under the auspices of the NOJ. In Hungary the organisation of the judicial administration is formally independent from the executive power by law. The task and the responsibility of central administration fall within the authority of the President of the NOJ. This authority is restricted by law and controlled and monitored by the National Judicial Council, which is elected by and composed of judges. Additional control over the President of the NOJ is exercised by the competent Committee of the Parliament and the Parliament itself, to which the President of the NOJ has to report regularly. But we also learned that the President of the NOJ has a questionably strong influence on the judiciary, for example regarding the appointment of the presidents of the Hungarian courts, often a highly political matter.

### 2. The Metropolitan Court of Budapest

The Metropolitan Court of Budapest is the largest regional court of the 20 regional courts in Hungary. 757 judges are working there. The Metropolitan Court as a first instance tribunal has the competence to deal with crimes for which the law is entitled to pass a sentence of 15 years imprisonment, life term or crimes against the state and humanity. In civil proceedings the Metropolitan Court has the competence in those property lawsuits where the subject has a value of more than HUF 10 Mio. (approximately € 32.000,00). Furthermore it deals with lawsuits for the compensation of damage that is caused by persons with administrative powers during their official procedure or in moral right infringement cases and rectification actions. Regarding the administrative law in Metropolitan Court taxation, customs duties, dues excise and public procurement cases have to be dealt with the most. The decisions of the Metropolitan Court as a tribunal of first instance can be appealed at the Tribunal of Appeal of Budapest.

The Metropolitan Court also reviews appeals lodged against decisions of district courts in the second instance.

### 3. The District Court of Szekszárd

The District Court of Szekszárd is a court of first instance, dealing with civil, criminal, administrative and labor cases. The Court is one of the 111 district courts in Hungary. With 12 Judges working there it is one of the smaller district courts with a very familiar atmosphere.



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### III. THE LAW OF THE HOST COUNTRY

Being a civil (family) judge I focused on civil law and civil procedure law. As far as I am able to judge, the Hungarian law in this context is basically similar to German law. The handling of civil cases by the Hungarian judges bears the same problems as related cases in Germany. But the rate of settlements in Hungarian civil lawsuits with approximately 5% does not seem to be very high.

### IV. THE COMPARATIVE LAW ASPECT IN MY EXCHANGE

The Hungarian legal system is partly based on ideas and elements of the German legal system, probably because of its roots in the times of the Austrian-Hungarian monarchy. These judicial systems were developed in the late 19th century and their basic structure has not been changed since then, for example the four level court structure: district court, regional court, regional court of appeal, curia (supreme court). However, there are some differences. In Hungary the aforementioned courts are also responsible for administrative and labour cases. In Germany in contrast, there is a special jurisdiction for administrative, labour, taxation, social benefits and patent matters. Therefore in Germany we do not have only one, but six supreme courts, one for each jurisdiction.

Another similarity is that Hungary has a Constitutional Court. But very concerning is the fact, that the Hungarian parliament has restricted the competences of the Constitutional Court in a very strong way. Since the amendment of the constitution in 2012 (implementation of the "Fundamental Law") the control of the Constitutional Court regarding amendments of the constitution is limited to judging the form of the amendment. The Constitutional Court no longer has the power to dismiss an amendment breaching the content of the Hungarian Constitution.

Highly problematic is the fact that the salary of the Hungarian judges has not been raised since 2003. Considering an inflation rate of, so I've been told, about 60% in Hungary during these 12 years this underpayment of the judges is an apparent danger for the independence of the courts and judges.

### V. THE EUROPEAN ASPECT OF MY EXCHANGE

In Hungary as well as in Germany European law is very important in the everyday work of the judges because of the high number of implemented EU directives. With the Hungarian judges we have also exchanged our experiences regarding the enforcement of foreign (European) judgements, the technical problems of enforcement and the national experiences of cooperation in civil crossborder matters. I was very impressed about the Hungarian institutional system of appointing judges who are working in a network in order to assist other judges in matters concerning EU-law.

### VI. THE BENEFITS OF THE EXCHANGE

The exchange programme is a very good opportunity to get to know judicial systems of other European countries in a very short time. Our tutors arranged a very good and interesting programme. We met judges from many different courts in Hungary and had a very intensive exchange, not only during the "official" programme but also in the evenings, meeting colleagues for a beer or a glass of wine. The big advantage of the group exchange in my opinion is that besides learning about the legal system of the host country, one also gets the chance to find out more about the legal systems in the countries of the other participants of the exchange. Another benefit is to appreciate the rules and structures of our own judiciary system on the one hand but also to question them on the other hand. For example: No other of the participating countries has such strict rules for the schedule of responsibilities for judges in civil cases as Germany. Since there is a discussion starting in Germany whether this system should be modified carefully, it was interesting to learn how other countries are dealing with this.



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As important as the exchange and discussions about legal matters was the development of personal relationships between the participants and the hosts. I was very impressed and touched by the hospitality of our Hungarian colleagues. The judges and other people working in the courts and other institutions were very committed, nice and open. All the people who are involved put in a lot of effort to organize an interesting and diverse programme also inviting us to many wonderful social occasions. Our hosts made us feel very comfortable all the time. A great experience!

## VII. SUGGESTIONS

The only thing I would like to mention is that the the participants were informed very late about the main details of the exchange. I would suggest that, not necessarily the complete programme, but the facts that are important for the bookings of flights and accomodation (like the exact time and place of the beginning and end of the programme for both weeks) should not be communicated later than 3 months before the exchange.



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## SUMMARY

We spent the first week in Budapest, visiting several courts and other legal organisations. Presentations regarding several legal matters were given to us. We were also listening to some court hearings in civil and administrative cases, obtaining a very interesting insight into the hungarian legal system. In the cultural programme we learned a lot about Budapest and hungarian history for example by visiting the Parliament, the House of Terror and several other sights.

Week two we spent in the city of Szekszárd, capital of the county Tolna. There we visited the Regional Court of Szekszárd, the District Court of Szekszárd and the Penal Institution of Tolna County (prison). We were discussing national and european legal matters with the hungarian judges, visiting trials regarding civil, family and criminal cases, getting a very deep insight into the hungarian legal system and jurisdiction.

The hospitality of our hungarian colleagues was phantastic. The judges and other people working in the courts and other institutions were very committed, nice and open. All people involved did a lot of effort to organize an interesting and diversifying programme also inviting us to many wonderful social occasions. I would highly recommend this exchange to Hungary!



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# ANNEX

## GUIDELINES FOR DRAFTING THE REPORT

### **I- Programme of the exchange**

Institutions you have visited, hearings, seminars/conferences you have attended, judges/prosecutors and other judicial staff you have met...

The aim here is not to detail each of the activities but to give an overview of the contents of the exchange.

If you have received a programme from the hosting institution, please provide a copy.

### **II- The hosting institution**

Brief description of the hosting institution, its role within the court organisation of the host country, how it is functioning...

### **III- The law of the host country**

With regard to the activities you took part in during the exchange, please develop one aspect of the host country's national law that you were particularly interested in.

### **IV- The comparative law aspect in your exchange**

What main similarities and differences could you observe between your own country and your host country in terms of organisation and judicial practice, substantial law..? Please develop.

### **V- The European aspect of your exchange**

Did you have the opportunity to observe the implementation or references to Community instruments, the European Convention of Human Rights, judicial cooperation instruments? Please develop.

### **VI- The benefits of the exchange**

What were the benefits of your exchange? How can these benefits be useful in your judicial practice? Do you think your colleagues could benefit of the knowledge you acquired during your exchange? How?

### **VII- Suggestions**

In your opinion, what aspects of the Exchange Programme could be improved? How?

