

Decision 3001/2020 (II. 4.) AB of the Constitutional Court of Hungary

On the dismissal of a constitutional complaint

In the matter of a constitutional complaint, the Panel of the Constitutional Court has rendered the following

decision:

The Constitutional Court dismisses the constitutional complaint seeking a finding of unconstitutionality by non-compliance with the Fundamental Law and annulment of the order of the Regional Court of Debrecen No 18/A.Bf.236/2018/7.

Reasoning

I

[1] 1. The petitioner, through his legal representative (István Győrffy, attorney at law), filed a constitutional complaint under Article 27 of Act CLI of 2011 on the Constitutional Court (hereinafter referred to as the "Constitutional Court Act"), seeking a finding of unconstitutionality by non-conformity with the Fundamental Law and annulment of the order of the Regional Court of Debrecen No 18/A.Bf.236/2018/7 and in this context the judgement of the District Court of Debrecen No 59.B.1659/2016/43.

[2] 1.1 In the underlying criminal proceedings, the District Court of Debrecen (hereinafter referred to as the "Court of First Instance") issued an order No 59.B.1659/2016/43 of 9 April 2018, whereby the Court of First Instance found the petitioner guilty of the misdemeanour of recklessly causing a road accident in violation of Section 235 (1) and qualifying under Subsection (2) (b) of Act C of 2012 on the Criminal Code (hereinafter referred to as the "Criminal Code"), and of the misdemeanour of driving under the influence of alcohol in violation of Section 236 (1) of the Criminal Code. As a cumulative sentence, the petitioner was sentenced to 3 years 10 months' imprisonment to be served in a correctional institution and 4 years' driving disqualification.

[3] The court of first instance acquitted the petitioner of the charge of unauthorised transfer of a vehicle contrary to Section 238 (1) of the Criminal Code.

[4] The court of first instance appointed a forensic medical expert to supplement the expert opinion obtained during the investigation. In its judgement, it stated, subject to the petitioner's objections in this connection, that the expert appointed was a forensic medical expert listed in the register of experts, and that his appointment had therefore been made in compliance with

the rules of Section 78 (4) of Act XIX of 1998 on Criminal Procedure (hereinafter referred to as the former "Code of Criminal Procedure"), and that the expert opinion submitted by him was lawful and well-founded. The Court of First Instance pointed out that, under Section 102 (1) of the former Code of Criminal Procedure, the expert could lawfully submit his expert opinion on his own behalf.

[5] 1.2 The Regional Court of Debrecen (hereinafter referred to as the "Court of Second Instance") upheld the judgement of the Court of First Instance with regard to the petitioner by its order No 18/A.Bf.236/2018/7.

[6] The Court of Second Instance found that the Court of First Instance had fulfilled its duty to investigate the case. As a result, it established a well-founded factual situation that did not require correction, which therefore also applies to the second instance proceedings pursuant to Section 591 (1) of Act XC of 2017 on Criminal Procedure (hereinafter referred to as the "Code of Criminal Procedure"). The Court of Second Instance also recorded that the Court of First Instance had acted in accordance with the provisions of Section 78 (3) to (4) of the former Code of Criminal Procedure. It stressed that it had carried out its weighing of the evidence, both individually and in relation to each other, and that the reasoning in the statement of reasons had traced the logical flow of reasons which led to the finding of the facts and, through them, to the finding of the petitioner's guilt and, in relation to the offence of unauthorised transfer of driving, to the acquittal.

[7] 2. According to the petitioner, the order of the Court of Second Instance violates Article XXVIII (1) and (7) of the Fundamental Law.

[8] 2.1 According to the petitioner, the violation of the right to a fair trial under Article XXVIII (1) of the Fundamental Law arises in connection with the right to a lawful judge and in connection with the taking of expert evidence.

[9] 2.1.1 In relation to the violation of the right to a lawful judge, the petitioner relied on the fact that according to the criteria for the assignment of cases of the criminal division of the Regional Court of Debrecen between 1 January and 31 December 2019 - available on the court's website on 27 March 2019 - one member of the second instance panel (Judge Zoltán Tóth) was a judge seconded from the District Court of Debrecen, whose secondment lasted from 1 January to 31 December 2018. According to the petitioner's position, the seconded judge was therefore not assigned to the 18/A.Bf. chamber of the Regional Court of Debrecen on 8 January 2019, when the order of the Court of Second Instance was made, and was therefore not entitled to act as a member of that panel.

[10] 2.1.2 The petitioner further explained that, in its view, the right to a fair trial also includes the requirement that the courts conduct the evidentiary procedure, including expert evidence, in accordance with the law.

[11] According to the petitioner's position, it can be established in his case that the experts who gave expert opinions - as self-employed persons - were not entitled to do so in light of Section 4 (1) and Section 48 of Act XXIX of 2016 on Forensic Experts (hereinafter referred to as the "Act on Forensic Experts") and the Organisational and Operational Rules of the University

of Debrecen. The experts could have drawn up the expert opinion as employees of the University of Debrecen Clinical Centre of the Institute of Forensic Medicine and not acting on their own behalf. It also follows clearly from this, as the petitioner argues, that the finding of his criminal liability was based on expert opinions which did not come from the person entitled to give them.

[12] 2.2 The petitioner's position is that the contested judicial decision infringes the right to legal remedy under Article XXVIII (7) of the Fundamental Law because the Court of Second Instance held a hearing in the appeal proceedings pursuant to Section 600 (1) (b) of the Code of Criminal Procedure, and presented the forensic autopsy report, the forensic expert opinion on drug consumption, the forensic technical expert opinion, the forensic toxicological opinion, the supplement to the technical expert opinion and the forensic expert opinion on intoxication. The petitioner stressed that the Court of Second Instance had admitted into evidence all the expert opinions produced in the course of the proceedings, and thus essentially the evidence on the basis of which the petitioner's criminal liability had been established.

[13] On the basis of the above, the petitioner complained that since the Court of Second Instance made the expert opinions referred to part of the proceedings, it prevented him from exercising an "effective legal remedy" and essentially reduced the actual judicial proceedings to a single instance.

II

[14] The relevant provisions of the Fundamental Law read as follows:

"Article XXVIII (1) Everyone shall have the right to have any indictment brought against him or her, or his or her rights and obligations in any court action, adjudicated within a reasonable time in a fair and public trial by an independent and impartial court established by an Act.

[...]

(7) Everyone shall have the right to seek legal remedy against any court, authority or other administrative decision which violates his or her rights or legitimate interests."

III

[15] The Constitutional Court first of all reviewed whether the constitutional complaint fulfilled the statutory requirements for a substantive review under the Constitutional Court Act.

[16] 1. The Constitutional Court found that the constitutional complaint submitted within the time limit fulfils the statutory requirements of an explicit request [Article 52 (1b) (a)-(f) of the Constitutional Court Act] and the requirements of Article 27 of the Constitutional Court Act.

[17] 2. Pursuant to Section 29 of the Constitutional Court Act, a further condition for the admissibility of a constitutional complaint is the existence of an infringement of Fundamental Law or a constitutional law issue of fundamental importance that substantially affects the judicial decision.

[18] In this context, the Constitutional Court emphasises at the outset that in its consistent practice it ensures the consistency of the judicial decision and the Fundamental Law when

acting within its competences regulated in Section 27 of the Constitutional Court Act. Consequently, when reviewing the violation of the Fundamental Law of a judicial decision, the Constitutional Court refrains from taking a position on questions of technical law or solely on questions of interpretation of the law, which fall within the power of review by overruling of the courts {Order 3272/2018 (VII. 20.) AB, Reasoning [38]}.

[19] In the case under review, the Constitutional Court - in light of its practice described above - found that the petition elements alleging a violation of Article XXVIII (1) and (7) of the Fundamental Law only partially meet the alternative legal requirements of Section 29 of the Constitutional Court Act for the following reasons.

[20] 2.1 The petitioner alleged a violation of the right to a fair trial partly in connection with the conduct of the evidentiary procedure. The essence of his argument was that the courts based their decision on an expert opinion from a person who was not entitled to present it. In that connection, the Constitutional Court points out the following.

[21] The Court of Second Instance gave clear reasons in its decision why it did not sustain the petitioner's objections concerning the irregularity of the expert evidence. The Court of Second Instance pointed out that the Court of First Instance had appointed another expert to supplement the expert's opinion on the petitioner's inebriety during the investigation. The Court of Second Instance stressed that the expert was "in fact a forensic expert on the register of experts" and was therefore entitled to give an expert opinion.

[22] The Court of Second Instance also pointed out - in the light of the petitioner's objections - that the Clinical Centre of Institute of Forensic Medicine of the University of Debrecen is not an expert institute, but a university, forensic, medical, teaching institute, whose staff are permanent forensic medical experts appointed by the Minister of Justice, university lecturers, who carry out the forensic medical expert activity as self-employed persons.

[23] On the basis of the statement of reasons in the contested judgement as cited, it can be concluded that the objections of the petitioners concerning the person and the opinion of the forensic expert appointed during the court proceedings were reviewed in detail by the Court of Second Instance. In fact, the petitioner complained, through the objections raised in the context of the expert evidence, that the courts hearing his case had not defined the scope of the evidence in accordance with the submissions made by the petitioner and had not assessed it in accordance with its position.

[24] The Constitutional Court recalls, however, its consistent practice that "[t]he establishment of the facts, the procedure of taking evidence, including the assessment of evidence, is part of the adjudicative activity of the courts hearing the case." {Order 3315/2014 (XI. 21.) AB, Reasoning [16]; Order 3014/2015 (I. 27.) AB, Reasoning [14]; Order 3029/2013 (II. 12.) AB, Reasoning [16]}. Therefore, the Constitutional Court is not called upon to adjudicate on specific disputes, but only to review the constitutionality of the judicial decision before it and to eliminate any unconstitutionality which may have a material impact on it. The arguments put forward by the petitioner in his constitutional complaint cannot be considered, in accordance with the practice of the Constitutional Court, as grounds for reviewing the constitutionality of the judicial decision {Order 3027/2014. (II. 17.) AB, Reasoning [20]; Order 3168/2013 (IX. 17.)

AB, Reasoning [14]; Order 3091/2013 (IV. 19.) AB, Reasoning [12]; Order 3218/2015 (XI. 10.) AB, Reasoning [16]; Order 3247/2018 (VII. 11.) AB, Reasoning [16]}.

[25] Therefore, the alleged violation of rights in connection with the appointment of the expert does not raise any doubt of the violation of the Fundamental Law or any constitutional law issue of fundamental importance in this context.

[26] 2.2 The Constitutional Court reviewed the conditions for the admissibility of the constitutional complaint on the basis of the alleged violation of the right to legal remedy as follows.

[27] In line with the consistent practice of the Constitutional Court, the right to legal remedy covers judicial or public administrative decisions as regards its subject matter, and the possibility to appeal to another body or to a higher forum as regards substantive decisions as regards its content. The right to legal remedy may be exercised in accordance with the law, and therefore different rules may apply in different proceedings {see in summary: Decision 36/2013 (XII. 5.) AB, Reasoning [60]}.

[28] In connection with the violation of the right to legal remedy [Article XXVIII (7) of the Fundamental Law], the petitioner explained that the Court of Second Instance had made all expert opinions generated during the proceedings, and thus essentially the evidence on the basis of which the criminal liability of the petitioner was established, subject to evidence.

[29] The Constitutional Court found that the Court of Second Instance had indeed held a hearing pursuant to Section 600 (1) (b) of the Code of Criminal Procedure, and that the documents relied on by the petitioner were presented at the hearing. In the Court of Second Instance's view, this was necessary because it was not possible to identify clearly from the available record of the hearing which documents had been disclosed by the Court of First Instance during the proceedings at first instance.

[30] However, in his constitutional complaint, the petitioner did not clearly indicate why the alleged violation of the law leads to the violation of the Fundamental Law by the challenged judicial decision. The petitioner did not claim that he was unaware of the facts contained in the documents presented, but on the contrary, he had challenged the expert opinions presented at the hearing at an earlier stage of the proceedings and his submissions in this regard were reviewed by the Court of First Instance.

[31] The Court of Second Instance expressly emphasised that, in accordance with its power of review, it "verified whether the Court of First Instance had complied with the procedural rules and also reviewed whether the judgement was unfounded". In that regard, it found that no procedural irregularity listed in Section 608 (1) of the Code of Criminal Procedure could be identified which would justify setting aside the judgement, and no other infringement of the rules laid down in Section 609 (1) of the Code of Criminal Procedure was found which would preclude a review on the substance.

[32] With regard to this, the Constitutional Court emphasises that the petitioner in fact criticised the content and legality of the unfavourable judicial decision through the alleged violation of the right to legal remedy, but did not attach a constitutional argument to the provision of the

Fundamental Law that was allegedly violated, which could be considered relevant and suitable for substantive assessment. "The petition seeks to have the Constitutional Court review the questions of fact and law decided by the Court of Second Instance and to assess them differently from the position of the court. However, in line with the consistent practice of the Constitutional Court, a petition is not admissible if it contains a substantive and legal criticism of the judicial decision and procedures without any grounds for the infringement of the Fundamental Law." {Order 3172/2015 (VII. 24.) AB, Reasoning [20]}

[33] Therefore, the Constitutional Court held that the constitutional complaint does not contain any grounds raising a fundamental constitutional violation or a constitutional law issue of fundamental importance in connection with the alleged violation of the right to legal remedy.

[34] 3. According to the petitioner's position, in his case a judge acted who could not have acted on the basis of the publicly available criteria for the assignment of cases at the time of the hearing of the case, and therefore his right to a lawful judge was violated.

[35] The Constitutional Court considered that the constitutional complaint raises a doubt of the violation of the Fundamental Law of the contested judicial decision on the merits in the context of the alleged violation of the right to a lawful judge, and therefore reviewed the merits of the petition in this part.

IV

[36] The petition is unfounded.

[37] 1. The Constitutional Court first reviewed the constitutional content of the right to a fair trial, in particular the right to a lawful judge.

[38] 1.1 The Constitutional Court summarised its position on the essence of the right to a fair trial in its Decision 6/1998 (III. 11.) AB, which was subsequently reaffirmed and further developed in several decisions {see: Decision 3003/2019 (I. 7.) AB, Reasoning [23]}.

[39] The Constitutional Court in its Decision 7/2013 (III. 1.) AB - explicitly in the context of its competence based on Article 24 (2) (d) of the Fundamental Law and Section 27 of the Constitutional Court Act - reaffirmed its practice regarding the right to a fair trial and stated that the constitutional requirements arising from the right to a fair trial - as elaborated by the Constitutional Court in its previous practice - can be enforced not only against the regulatory environment, but also against individual judicial decisions (Reasoning [27]).

[40] 1.2 A fair trial is a quality factor that may only be judged by taking into account the whole of the procedure and all of its circumstances. Therefore, despite the absence of some details, as well as the observance of all the rules of detail, a procedure may be "inequitable", "unjust" or "unfair" {Decision 6/1998 (11.3.1998) AB, ABH 1998, 91, 95; Decision 7/2013 (III. 1.) AB, Reasoning [24]}.

[41] Along the lines of the previous practice of the Constitutional Court, the fairness of a procedure can only be judged on a case-by-case basis, taking into account the circumstances of the particular case. With this in mind, the Constitutional Court has defined in its decisions the specific criteria required for a fair trial on a case-by-case basis. However, it is possible to

list a number of requirements that a procedure must meet in order to be considered fair {Decision 3025/2016 (II. 23.) AB, Reasoning [19]; see also Decision 36/2013 (XII. 5.) AB, Reasoning [32]-[34]; Decision 22/2014 (VII. 15.) AB, Reasoning [49]; Decision 3215/2014 (IX. 22.) AB, Reasoning [11] to [13]; Decision 36/2014 (XII. 18.) AB, Reasoning [66]; Decision 3003/2019 (I. 7.) AB, Reasoning [27]}.

[42] 1.3 The Constitutional Court has pointed out in several decisions that the right to a fair trial is an absolute right against which there is no other fundamental right or constitutional objective that can be weighed, because it is itself the result of an act of striking a balance. The Constitutional Court, however, reviews the enforcement of certain subset of rights of the right to a fair trial and their compliance with the Fundamental Law by applying the general test for the protection of fundamental rights set out in Article I (3) of the Fundamental Law {Decision 3031/2017 (III. 7.) AB, Reasoning [61]}. In addition to the constitutionality test applicable as a general rule, additional criteria can be defined for certain fundamental rights, which, on the one hand, make this general test more specific by adapting it to the content of the right in question and, on the other hand, which, in their specificity, define the essential content of the fundamental right in question by means of constant and specific criteria rather than by means of a general rule that works by reference {see Decision 3003/2019 (I. 7.) AB, Reasoning [29]}.

[43] In these cases, a system of criteria must be developed within the framework of certain requirements (subset of rights) arising from the fairness of the procedure, which give it its content. Accordingly, the Constitutional Court has pointed out in several decisions that it has its own doctrine of what constitutes a "court" {Order 3116/2015 (VII. 2.) AB, Reasoning [11]}, when it is "lawful" {Decision 36/2013 (XII. 5.) AB, Reasoning [32]}, "independent" and "impartial" {Decision 21/2014 (VII. 15.) AB, Reasoning [58]}.

[44] 1.4 In the petitioner's view, the right to a lawful judge was violated in this case, because at the conclusion of the court proceedings against him, the judge who participated in the Court of Second Instance's panel was not a judge of the court according to the criteria for the assignment of cases available at the time, which was published on the court's website. The Constitutional Court therefore reviewed the constitutional content of the right to a lawful judge in law in the context of the legislation on the publication of the criteria for the assignment of cases.

[45] Pursuant to Article XXVIII (1) of the Fundamental Law, everyone has the right to have his case heard by a court established by law. As held by the Constitutional Court, '[t]he requirement of a court established by law includes the right to a lawful judge, that is to say, to be governed by the rules of material and territorial competence laid down in the general rules of procedure in a particular case. This constitutional principle is set out in Act CLXI of 2011 on the Organisation and Administration of the Courts (hereinafter referred to as the "Courts Organisation Act") in the Principles of the Act, which states that no one may be deprived of his or her lawful judge [Section 8 (1)]. In order to ensure objectivity and impersonality, and to exclude arbitrariness, the criteria for the assignment of cases is established by the president of the court in the previous year, which may be changed in the current year only for reasons of service or for important reasons affecting the functioning of the court [Section 9 (1)]' {Decision 36/2013 (XII. 5.) AB, Reasoning [32]}.

[46] Section 8 of the Courts Organisation Act thus establishes the right to a lawful judge as one of the basic principles of the law and defines the concept of a lawful judge. A lawful judge is a judge appointed by the rules of procedure in a court of material and territorial competence on the basis of a pre-established criteria for assignment of cases. The legislator expressly emphasised in the explanatory memorandum to the proposed text of the Courts Organisation Act that "[b]ecause of its close connection with the provisions of the Fundamental Principles and in view of the fact that one of the guarantees of the guarantee of this right is the establishment of a case allocation order, the law places detailed rules on the criteria for the assignment of cases in the Fundamental Principles." Section 11 (2) of the Courts Organisation Act provides as a rule of guarantee that "[t]he assignment of cases may be derogated from in cases governed by procedural law and by administrative procedure for important reasons affecting the operation of the court".

[47] Section 9 (1) of the Courts Organisation Act provides that the criteria for the assignment of cases shall be determined no later than 10 December of the year preceding the year in question. The reason for this is that there is a special interest in ensuring that the assignment of cases is actually completed by the cut-off date, since this is linked to the ability to determine who is to be considered the "lawful judge ". The purpose of setting a time limit is, according to the legislature, to ensure that the assignment of cases does not change indefinitely during the year, since a stable criteri for the assignment of cases is necessary to ensure that the requirement of prohibition of deprivation of the right to a lawful judge. At the same time, however, there may be events during the year which make it unavoidable to change the criteria for the assignment of cases, and if a judge is assigned to the court after the criteria for the assignment of cases has been determined, the criteria for the assignment of cases must be supplemented accordingly.

[48] The Act also expressly provides that "[t]he criteria for the assignment of cases and its amendments and supplements shall be made known to the parties concerned without delay and shall be posted in the court in a place accessible to the parties and published on the central website of the courts [...] and, if the court so provides, on the website of the court concerned" [Section 11 (1) of the Courts Organisation Act].

[49] 2. In reaching its decision on the merits, the Constitutional Court - in accordance with its consistent practice - also took into account the practice of the European Court of Human Rights (hereinafter referred to as the "ECtHR") {Decision 61/2011 (VII. 13.) AB, ABH 2011, 291, 321; reaffirmed by Decision 32/2012. (VII. 4.) AB, Reasoning [41]; Decision 7/2013 (III. 1.) AB, Reasoning [30]; Decision 8/2013 (III. 1.) AB, Reasoning [48]; Decision 22/2013 (VII. 19.) AB, Reasoning [16]; Decision 13/2014 (IV. 18.) AB, Reasoning [33]; Decision 3003/2019 (I. 7.) AB, Reasoning [38]}.

[50] Pursuant to Article 6 (1) of the European Convention on Human Rights (hereinafter referred to as the "ECHR"), "[i]n the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law".

[51] In the practice of the ECtHR, Article 6 (1) of the ECHR provides that a court must be "established by law". The expression 'established by law' in Article 6 of the Convention is intended to ensure that the judicial organisation in a democratic society does not depend on the discretion of the executive, but that it is regulated by law emanating from Parliament ' [Zand v. Austria (7360/76) 16 May 1977, cited in *Miracle Europe Kft. v. Hungary* (57774/13) 12 January 2016, para 51]

[52] The ECtHR has pointed out that "law" means not only the legislation governing the establishment and jurisdiction of judicial bodies, but also any provision the breach of which would render the participation of one or more judges in the hearing of a case irregular. Such provisions include, for example, those governing the independence of the members of the judicial panel, the length of their term of office, impartiality and the existence of procedural guarantees [Coeme and Others v. Belgium (32492/96, 32547/96, 32548/96, 33209/96 and 33210/96), 22 June 2000, paragraph 99; Gurov v. Moldova (36455/02), 11 July 2006, paragraph 36].

[53] The ECtHR's practice emphasises the need for courts in a democratic society to inspire confidence in the public and in the parties involved in the proceedings. In deciding whether concerns about the independence or impartiality of a particular court are justified, the views of the parties to the proceedings are important but not decisive. What is decisive is whether the doubts of the parties can be justified on objective grounds [Morris v. United Kingdom (38784/97), 26 February 2002, paragraph 58; Miroshnik v. Ukraine (75804/01), 27 November 2008, paragraph 61]. In this respect, even appearances can have a certain significance, that is, " justice must not only be done: it must also be seen to be done" [De Cubber v. Belgium (9186/80) 26 October 1984, para 26]. The ECtHR has therefore often considered the requirement of the right to a lawful judge together with the requirements of independence and objective impartiality [Sacilor Lormines v. France (65411/01) 9 November 2006, para 62].

[54] The practice of the ECtHR can therefore be summarised in the fact that the selection of the judge, the principles and other legal aspects of the criteria for the assignment of cases must always be verifiable. Otherwise, the rules may risk creating the appearance of lack of independence and impartiality and did not offer the foreseeability and certainty that is required in order for a court to be considered "established by law" [*Miracle Europe Kft v. Hungary* (57774/13), 12 January 2016, para 63].

[55] 3. According to the petitioner's argument, the judicial panel 18/A.Bf of the Regional Court of Debrecen made a decision in his case, in which the judge concerned also participated. According to the criteria for the assignment of cases for 2019 attached by the petitioner, which was allegedly downloaded on 27 March 2019, the seconded judge from the District Court of Debrecen was seconded for the period between 1 January 2018 and 31 December 2018 (no other data was included in this case assignment order). The petitioner's position is that the seconded judge could not have acted in the decision No 18/A.Bf.236/2018/7 of 8 January 2019.

[56] 3.1 On the basis of the available documents, the Constitutional Court found that two sets of criteria for assignment of cases were available on the website of the Regional Court of Debrecen for 2019 - at the time of the submission of the constitutional complaint.

[57] One of the sets of criteria for the assignment of cases is the criteria for the assignment of cases in force between 1 January 2019 and 1 May 2019. In this case, Dr. Zoltán Tóth's name is followed by a note: "subject to Presidential Instruction No 2014.El.III.D.1.16/8, the effectiveness of secondment shall be set at 31 December 2019."

[58] The other criteria for assignment of cases is the modified duty roster in force from 1 May 2019. In that order, the period of secondment of the judge concerned is set from 1 January 2018 to 31 December 2019.

[59] 3.2 In view of the gravity of the violation of fundamental rights alleged in the petition, the Constitutional Court, in accordance with Section 57 (2) of the Constitutional Court Act, contacted the head of the court concerned by the petition.

[60] The President of the Regional Court of Debrecen explained to the Constitutional Court that due to an "administrative error", the website of the Regional Court of Debrecen had shown the earlier date of the posting of the judge concerned, that is, the date of the year 2018, but this was later corrected. The President of the Regional Court of Debrecen also attached Presidential Instruction No 2014.El.III.D.1.16/8 of 20 November 2018, pursuant to which the secondment of the District Court Judge concerned to the Regional Court of Debrecen was extended as decided by the President of the Regional Court of Debrecen on the basis of Section 31 (1) and (3) of Act CLXII of 2011 on the Legal Status and Remuneration of Judges, in accordance with the decision of the Presidential Instruction of 20 November 2018, No 2014.El.III.D.1.16/8, from 1 March 2014, at the Debrecen Regional Court with full employment, for the trial of criminal cases of second instance, until 31 December 2019.

[61] The President of the Regional Court of Debrecen also referred to the fact that the members of the special panel had given their opinion on the 2019 criteria for the assignment of cases in the light of this Presidential Instruction, which was therefore decided in view of the fact of the extension of the secondment.

[62] On the basis of the above, the Constitutional Court found that in the - originally adopted - criteria for the assignment of cases of the Regional Court of Debrecen for 2019, the period of the assignment of the judge concerned contained an incorrect year (2018) due to an administrative error.

[63] 4. On the basis of the above, the Constitutional Court dismissed the constitutional complaint.

Budapest, 21 January 2020

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