



## **INTERNSHIP REPORT AND SUMMARY**

### **Identification of the participant**

Name: Dr. Gamp

First name: Stephanie

Nationality: German

Country of exchange: Hungary

### **Identification of the exchange**

Hosting jurisdiction: Curia of Hungary

City: Budapest

Country: Hungary

Dates of the exchange: 23/10/2022 - 27/10/2022

## **SUMMARY**

I would like to thank the Curia of Hungary for the diligent preparations of my exchange. During the five days of my stay, I had the opportunity to talk to many homologues at the Curia of Hungary as well as at other courts and administrative authorities. Thanks to the wonderful hospitality of my Hungarian colleagues I was granted a very insightful introduction to the Hungarian administrative jurisdiction. Hence, I was able to develop a further understanding of the most recent changes in Hungarian administrative jurisdiction, e.g. the basis of the law of assembly and the current practice of asylum law.



## REPORT

### I. Program of the exchange

During my program, I mainly visited the Curia of Hungary. I was able to talk to judges about their work and specific upcoming legal proceedings. In addition, the head of the administrative justice department of the Curia introduced me to the organizational structures of the court. I seized the opportunity to meet with the President of the Curia on the occasion of him conducting an oral hearing. Both visits to the library of the Curia and the Werboczy István National Judicial Research Institute have left a deep impression.

I also visited the Constitutional Court of Hungary and was able to talk to a colleague who works as a senior legal advisor for one of the 15 constitutional judges. There are five constitutional judges in each of the three panels of the court, who are elected to serve for 12 years. Each constitutional judge can rely on the assistance of several advisors. The constitutional judges have usually previously worked in the administration - for example in ministries - or as lawyers, judges or university lecturers. My colleague's explanations gave me an interesting understanding of the work and the relevance of the Constitutional Court in Hungary.

Furthermore, I visited the Administrative Department of the Budapest Regional Court of Appeals and the Budapest (Regional) High Court. I learned that the age requirement for judges in Hungary is 30 years. Up until that age, lawyers are employed as court clerks and are prepared for their future work as a judge. It was also interesting to learn that two thirds of judges in Hungary are female. However, interest in this profession seems to be waning. A fact, that my Hungarian colleagues attribute to the late age of entry compared to any other job in the legal profession as well as to increasing public criticism of individual decisions on a personal level.

My agenda was rounded off by a visit to the National Directorate - General for Aliens Policing - Asylum Unit - on Hungary's current asylum law practice.

### II. The hosting institution

The Curia of Hungary is the highest instance judicial forum of Hungary, dealing with administrative, civil, criminal and labour matters, except for issues within the competence



of the Constitutional Court of Hungary. The Curia is divided into departments dealing with civil, criminal or administrative law.

I was particularly interested in the work of the administrative court department. The administrative judiciary is still in a process of change, no fixed system has been established yet. There was no administrative jurisdiction in Hungary until the change of regime 1989/90. In the meantime, administrative decisions can also be reviewed by the courts. However, there is no independent administrative jurisdiction for this purpose; instead, administrative jurisdiction is part of the civil courts. However, several legislative changes in recent years have contributed to the fact that administrative court jurisdiction is subject to its own procedural regulations - and no longer to the Code of Civil Procedure. It is increasingly gaining independence. On 1<sup>st</sup> of April 2022, further changes entered into force. For example, the senates of the Curia of Hungary now decide in a composition of five judges (previously: three judges). To that end, several senates have been merged. Hence, there are now two or three presiding judges in one senate. Following a special routine, they take turns in presiding. In several conversations with the judges, I inquired in and discussed the continuous process of change in the administrative jurisdiction. Both advantages and disadvantages have been pointed out to me. I am especially impressed and thankful for many frank and substantial exchanges of views and arguments on these topics.

### III. The law of the host country

I was particularly interested in Hungarian assembly law, as this area of law falls within the jurisdiction of the senate of the Federal Administrative Court in which I work. In Hungary, the Curia has first and last instance jurisdiction for assembly law cases. Exceptions apply only to proceedings in connection with the dissolution of an assembly. The leader of an assembly who wishes to defend himself in court against requirements or restrictions imposed by the assembly authority is given a three day period to file a complaint. The assembly authority has then another three days to respond to the complaint. Following the authority's response, the Curia has three days to reach to a decision, Saturdays and Sundays included. This means that within a total of only nine days after the administrative decisions has been issued, the Curia has reached a decision. That speed is certainly impressive. Hungarian assembly law is significantly influenced by German law. My Hungarian colleague was employed at the Ministry of Justice before he became a judge and was significantly involved in the drafting of the Hungarian Assembly Act. Therefore, he was not only familiar with landmark decisions of the German Federal Constitutional Court but also - much to my surprise - with the current case law of my senate on climate camps and protest camps.

Additionally, I was interested in asylum proceedings. I had the opportunity to exchange views and arguments with a judge who had worked in this field before moving to the Curia

of Hungary. Her experience dates back to the time before the completion of the fortifications on the border to Serbia and Croatia. She reported on the physical and mental burden resulting from the mass of cases and the multitude of individual fates. This coincided with my impressions gained in an asylum chamber during that specific period. My Hungarian colleague at the asylum office described to me the current procedure for filing an application for international protection, which has been in effect since spring 2020. According to this procedure, the interest in filing such an application in Hungary must be declared outside the country at a Hungarian diplomatic mission in Belgrade or Kiev ("declaration of interest"). Exceptions apply, for example, to family members of a person recognized as entitled to protection in Hungary or to persons in detention. The interested persons are registered in a waiting list and called to the embassy. Waiting times can amount to several weeks, sometimes months. In reality, the persons on the waiting list do usually not show up for their appointment at the embassy. They have long since travelled on by other means. Only if the preliminary examination at the mission abroad leads to a positive result, the interested persons are given the opportunity to enter Hungary to file their application for international protection. This year (2022) up until October, only 38 persons have entered Hungary to file an application for international protection.

For me personally, the uniformity complaint panel of the Curia is a special highlight of the Hungarian Code of Administrative Procedure. The main instruments of the Curia in ensuring the uniformity of the application of the law are the review proceedings. According to procedural regulations, an alleged legal deviation from a published decision of the Curia constitutes grounds for review. Since January 2022, there are two panels with 21 permanent members, including the head of each judicial panel of the Curia, nominated to one or the other, as well as several administrative leaders of the Curia.

#### **IV. The comparative law aspect in my exchange**

By participating in an oral hearing, I was able to observe procedural similarities and differences between the two procedural systems. The essential procedures and formalities are similar to German law. However, at least in the case I observed, the judgement was handed down much faster than in Germany:

The presiding judge opened the hearing and put on record who had appeared, the rapporteur read out a factual report and the presiding judge then gave a preliminary assessment of the state of affairs and the dispute. Thereupon, the parties were given the opportunity to comment. In this respect, the procedures were similar. In contrast to the German administrative process, however, parties stand up when making statements. I was surprised that the hearing was concluded after a little more than 30 minutes, which was apparently also due to the fact that the plaintiff's representative essentially referred to his written statements. Afterwards, the parties and the public were asked to leave the

room during panel deliberations. After further 30 minutes, everyone was called back into the courtroom. The chamber then pronounced its judgement and briefly explained its reasons. In view of the length of the deliberations at the Federal Administrative Court, which regularly last several hours, I was very surprised by this speed. Unfortunately, even after consulting with my colleagues, I was not able to establish whether the length of this proceeding was typical or rather exceptionally short.

## **V. The European aspect of my exchange**

When discussing the requirements of the Common European Asylum System and the European Convention on Human Rights, with special focus on the area of asylum law, we had controversial views on various aspects, e.g. the classification of Serbia as a safe third country in Hungarian asylum law or the criteria on the basis of which the declaration of interest is examined at the embassy abroad.

## **VI. “Good Practice” within the host jurisdiction**

It is my impression that Hungarian administrative procedural law prescribes numerous time limits for decisions, in order to ensure legal protection be granted within a reasonable period of time. Other Countries could possibly benefit of such time limits in their procedural codes.

## **VII. The benefits of the exchange**

I have benefited from this exchange in Budapest in multiple ways: with respect to legal, linguistic and cultural matters.

## **VIII. Suggestions**

Having gone through this amazing experience, I consider it highly important that this program be continued. It has the potential to provide diverse insights into other legal systems. A truly enriching experience. The immaculate diligent preparations for my stay leave no room for any suggestions for improvement.