

Judicial Independence (2015)

Objective

The objective of this updated questionnaire is to collect factual information on structural guarantees for judicial independence, which cover certain guarantees for the independence of judges and for the independence of the judiciary.

The updated judicial independence questionnaire maintains almost all questions from the 2014 questionnaire and is already prefilled with the replies you have provided. If a reply was later adapted following clarifications you have provided, these replies are highlighted. Please review these modifications and feel free to adapt other 2014 replies, if the legislation or practice in your country has changed or if you believe the replies should be clarified. Please highlight any such additional changes red.

New or modified questions are highlighted. These mostly concern questions regarding the composition and powers of Councils (prefilled with your replies in 2014), and the appointment of judges. The questionnaire containing replies could later be published.

Respondent's Information

Member State	Council for the Judiciary
Hungary	Országos Bírói Tanács / National Judicial Council

Additional Information

For additional information regarding the questionnaire, please contact the Directorate-General for Justice and Consumers of the European Commission.

Basic concepts:

The Hungarian court system is as follows:

Curia (1) – its jurisdiction in criminal, civil and administrative cases covers the examination of municipal decrees as to compliance with the law, adjudication of extraordinary remedies and appeals, adopting uniformity decisions.

Regional courts of appeal (5) – their jurisdiction in criminal and civil cases covers the adjudication of appeals received from the regional courts.

Regional courts (20) – their jurisdiction in criminal, civil and administrative cases covers the adjudication of appeals received from district courts, administrative and labour courts, and procedure at first instance in certain criminal and civil cases.

District courts (111) – their jurisdiction in criminal and civil cases covers the procedures at first instance. The maximum permissible number of judges in the largest district court is 357, whereas the smallest court operates with one judge.

Administrative and labour courts (20) – their jurisdiction covers procedures at first instance in individual and collective labour disputes, and in administrative actions.

National Office for the Judiciary (NOJ):

It is responsible for the central administration of the court system.

The president of NOJ shall provide for – with due regard to the constitutional principle of the judicial independence – the central duties of the courts' administration.

- The candidate for the presidency of the NOJ is suggested by the President of the Republic.
 - a. The candidate must be a judge appointed for an indefinite period with at least 5 years judicial practice.
- The committee of the Parliament that is responsible for justice issues hears the candidate.
- The National Judicial Council hears the candidate and forms an opinion about him/her.
- The Parliament elects the candidate with the 2/3 majority of the votes for 9 years. No re-election is possible.

National Judicial Council (NJC):

- The NJC is the supervisory body of the central administration of courts.
- The NJC consists of 15 members. The members are the president of Curia and 14 judges.
- The 14 judge-members of NJC are elected by the electoral college of judges from among the electors by way of secret ballot with the majority of votes. Judges with at least 5 years of judiciary practice may be elected to be members of NJC.
- The NJC is headed and represented by the chairman. The position of the chairman of NJC is vested on the members in rotation on a half year basis, starting with the judge with the longest period spent in service status as a judge.
- The session of NJC is open to judges, with the exception of the cases when the NJC orders the holding of a closed session.

In addition to the members of NJC, the following persons shall participate at the sessions of NJC (without the right to vote, just with the right of consultation): the President of the NOJ, the Minister of Justice, the General Prosecutor, the President of the Hungarian Bar Association, the President of the Hungarian Notary Publics' Association, the expert of the case invited by any the President of the NJC, and the representatives NGO's invited by the President of the NJC.

Judicial Council:

These are self-governing bodies elected by the judges at each Regional Court, Regional Court of Appeal and at the Curia. The members of the judicial council are elected by the conference of judges of the court for six years. It is the judicial council's authority to:

- form an opinion on appointing and transferring or delegating the judge without his/her approval, or dismissing the judge,
- it may initiate the examination of the president, vice president, head of group or deputy head of group of the district court and of the administrative and labour court, or his/her dismissal,
- it shall form an opinion on the annual budget plan of the court and on the utilisation of the approved budget, and
- it shall form an opinion on the organisational and operational regulations and the case allocation plan of the court.

Service Tribunal:

It proceeds in

- disciplinary cases of judges,
- related compensation cases
- any legal disputes arising from the professional evaluation of the activities and of the managerial duties of judges.

In the disciplinary cases of judges the Service Tribunal shall proceed. The Service Tribunal of first instance is seated at the Regional Court of Appeal of Budapest, the Service Tribunal of second instance is seated at the Curia.

The members of the Service Tribunal are judges, elected by their peers by a secret ballot.

1. AUTHORITIES WITH POWER TO DELIVER THE MAIN DECISIONS ON HUMAN AND FINANCIAL RESOURCES IN THE JUDICIARY¹

Which authorities or bodies have the power to deliver the following decisions in the judiciary?

1.1. Selection, appointment and dismissal of judges and court presidents

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the proposal to appoint or dismiss a judge.]

- x) decision establishing there is a vacant judicial position
- a) proposal of candidates for the appointment as first or second instance judges
- b) decision on the appointment of a first or second instance judge
- c) proposal for the dismissal of a first or second instance judge
- d) decision on the dismissal of a first or second instance judge
- e) proposal of candidates for the appointment as court presidents
- f) decision on the appointment of a court president
- g) proposal for the dismissal of a court president
- h) decision on the dismissal of a court president

	x)	a)	b)	c)	d)	e)	f)	g)	h)
President of a court:	MA	MA		CA			D		D
Special chamber of a court:									
Higher court:									
Supreme Court:									
Council for the Judiciary:		MA							
Judicial inspection body:									
Other independent body (specify): Judicial Council		MA						CA	
Other independent body (specify): Service Tribunal				MA					
Other independent body (specify): President of the National Office for the Judiciary	D	FS	D	MA			D		D

¹ Cf. European Network of Councils for the Judiciary, [Resolution of Budapest on Self-Governance for the Judiciary: Balancing Independence and Accountability](#), May 2008, at 2).

Other independent body (specify): conference of judges						MA		CA	
Ministry/Minister of justice:									
Other ministry than min. of justice (specify): ...									
Parliament:									
Head of state: if applicable- on advice of ...			D		D				
Other (specify):									

Note:

The appointment procedure of judges:

- I. The President of the Court informs the President of the National Office for the Judiciary (NOJ) when a judge's position becomes empty.
- II. The President of the NOJ announces a public call for applications to the empty position.
 - a. To be appointed as a judge an applicant has to:
 - i. be Hungarian citizen
 - ii. have the capability to act
 - iii. have a university degree in law
 - iv. have passed the professional legal exam
 - v. give a property declaration
 - vi. have worked at least one year in a position in which the professional legal exam is needed
 - vii. pass a physical and psychical examination
 - viii. be at least 30 years of age.
- III. The Judicial Council forms an opinion about the applicants and ranks them by giving points to evaluate their skills and attributes.
- IV. The President of the Court makes a suggestion to the President of the NOJ, who should be appointed as a judge at the court.
 - a. When the President of the Court makes a suggestion to the President of the NOJ he/she can only suggest the applicant who is the 1st, 2nd or the 3rd in the ranking formed by the Judicial Council. If he/she suggests the 2nd or the 3rd, he/she must explain the reasons in a written form.
- V. The President of the NOJ submits a proposal to the President of the Republic who should be appointed as a judge.
 - a. The President of the NOJ can only propose the applicant who is the 1st, 2nd or the 3rd in the ranking formed by the Judicial Council. If he/she suggests the 2nd or the 3rd in order, he/she must explain the reasons to the National

Judicial Council (NJC). The 2nd or the 3rd in ranking can only be suggested to be appointed if the NJC gives its consent.

VI. The President of the Republic has the right to decide upon the appointment of a judge.

Those applicants who were not appointed have the right to file a complaint against the decision. The complaint shall be adjudicated by the Administrative and Labour Court.

If the successful applicant is already a judge, then there is no need for a re-appointment procedure: the judge is transferred by the President of the NOJ to the new position.

The dismissal procedure of judges:

I. The reasons for the dismissal of a judge are stated in law:

- a) if the judge resigned,
- b) if the judge is ineligible for the fulfilment of the judicial office for health reasons on a long-term basis or was declared ineligible in the course of the inaptitude proceedings (by the Service Tribunal)
- c) if a prison sentence or a sentence of community service was imposed on the judge on a final basis or the judge was subjected to forced psychiatric treatment,
- d) if the judge failed to take the judicial oath within the time limit,
- e) if the judge loses his/her Hungarian citizenship or the capability to act,
- f) if the judge was elected as a Member of Parliament, Member of the European Parliament, local municipality board member or mayor or was elected or appointed as a state leader
- g) if the judge enters into a legal relationship with an international organisation or any of the agencies of the European Union,
- h) if the judge has completed the applicable old-age pension age or before the completion of this upper age limit, requests his retirement
- i) if, in disciplinary proceedings instituted against the judge, removal from the office of judge was proposed as a final disciplinary sanction,
- j) if it has been found in a judicial review procedure initiated against the result of the call for applications that the conditions for appointment as a judge had not been fulfilled,
- k) if the judge willfully fails to meet the obligation to make a property declaration or willfully states data or facts incorrectly,

- l) if the judge fails to meet his obligation to prove that he/she no criminal record, or is not prohibited from professions requiring a university degree in law,
 - m) if the judge fails to attend the medical examination ordered by the president of the court because of the possibility of the health-reasoned based ineligibility of the judge,
 - n) if the judge is appointed as the rector of a state institution of higher education or the head of a research centre or research institute,
 - o) if the judge terminated his service relationship unlawfully,
 - p) if the incompatibility of the judge was adopted with final decision
- II. If such reasons arise the president of the court informs the President of the NOJ.
 - III. The President of the NOJ submits a proposal to the President of the Republic upon the dismissal of the judge.
 - IV. The President of the Republic has the right to decide upon the dismissal of a judge.

The appointment procedure of court presidents:

Court presidents are the presidents of the regional courts of appeal, the presidents of regional courts, the presidents of the administrative and labour courts and the presidents of the district courts.

Although the President of the Curia is also a court president, there are different rules according to this position, detailed under 1.2.

The appointment procedure is different at the levels of the court system:

Presidents of the Regional Courts of Appeal (5) and Regional Courts (20):

1. The position must be filled due a publicly announced application procedure.
2. If the position becomes empty, the President of the NOJ announces a public call for applications for the empty position.
3. The applicants have to be already judges appointed for an indefinite term.
4. The applicants have to present their long term plans about the operation of the court.
5. The conference of judges at the regional court or at the regional court of appeal forms an opinion upon the applicants by a secret ballot.
6. The President of the NOJ hears the applicants. The record of the hearing is made public on the central website of the courts.

7. The President of the NOJ decides upon the appointment.
 - a. If the President of the NOJ wants to differ from the opinion of the conference of judges he/she is obliged to give a written reasoning of the decision to NJC.
 - b. If the President of the NOJ wants to appoint an applicant who hasn't received the majority of the votes at the conference of judges the consent of the NJC is needed for the appointment. Without the consent of the NJC the applicant cannot be appointed.
8. The successful applicant is appointed for 6 years with the possibility of one re-election. In special cases, the NJC can give its consent for the second re-election.

Presidents of the District Courts (111) and Labour and Administrative Courts (20):

1. The position must be filled in a publicly announced application procedure.
2. If the position becomes empty, the President of the Regional Court announces a public call for applications for the empty position.
3. The applicants have to be already judges appointed for an indefinite term.
4. The applicants have to present their long term plans about the operation of the court.
5. The conference of judges at the district court, or at the administrative and labour court forms an opinion upon the applicants by a secret ballot.
6. The President of the Regional Court hears the applicants.
7. The President of the Regional Court decides upon the appointment of the District Courts and Labour and Administrative Courts.
 - a. If the President of the Regional Court wants to differ from the opinion of the conference of judges he/she is obliged to give a written reasoning of the decision.
8. The successful applicant is appointed for 6 years with the possibility of one re-election. In special cases, the NJC can give its consent for the second re-election.

The dismissal procedure of court presidents:

The person authorized to make the appointment shall investigate the court president's managerial activities as frequently as necessary but minimum once, at latest in the year preceding the expiration of the president's mandate.

The person authorized to make the appointment shall order the investigation of the court president's managerial activities, if

a) the President of the NOJ establishes that the court president fails to implement his/her decisions or rules,

b) the conference of judges or the judicial council initiates the removal of the court president.

If the managerial investigation established the court president's inaptitude, he/she shall be dismissed from his/her position. The dismissed court president may turn to the Service Tribunal against the decision.

If the office of a court president ends prior to the expiry of its fixed term, he/she shall be posted in a position as a judge that is minimum equal to his previous position, if possible, at his previous service post, without the invitation of applications.

1.1.1. If any other authority, body or agency is involved in the procedure for appointment of judges, please describe its involvement:

See above.

1.1.2. What is the procedure for selecting candidates for becoming judges? [several answers possible]

- Recruitment through a specific exam or a competition, which includes a specific exam for becoming a judge
- Recruitment through a vacancy notice without a specific exam
- Other (specify): ...

1.1.3. If a candidate judge is not appointed, is the appointing authority/body required to provide him/her the reasons (e.g. a reasoned explanation)?

- Yes
- No

1.1.4. If a candidate judge is not appointed, can he/she appeal or request a review?

- Yes
- No

1.1.4.1. If yes, which authority or body decides on such an appeal/review?

- Council for the Judiciary
- Other independent body (specify): ...
- Court responsible for disciplinary measures for judges (e.g. disciplinary senate, civil service court...)
- Another court / President of another court
- Higher court / President of a higher court
- Administrative and Labour court** / President of the Administrative Court
- Supreme Court / President of the Supreme Court
- Constitutional Court / President of the Constitutional Court
- Other (specify): ...

1.1.4.2. What was the total number of appeals or requests for a review by unsuccessful candidate judges in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ...".]

All requests for appeal/review: : 0 / N/A

If possible, specify this number for candidate judges in different areas (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

1.2. Selection, appointment and dismissal of Supreme Court judges and the President of the Supreme Court

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the proposal to appoint or dismiss a judge.]

- a) proposal of candidates for the appointment as Supreme Court judges
- b) decision on the appointment of a Supreme Court judge
- c) proposal for the dismissal of a Supreme Court judge
- d) decision on the dismissal of a Supreme Court judge
- e) proposal of the candidate(s) for the appointment of the President of the Supreme Court
- f) decision on the appointment of the President of the Supreme Court
- g) proposal for the dismissal of the President of the Supreme Court
- h) decision on the dismissal of the President of the Supreme Court

	a)	b)	c)	d)	e)	f)	g)	h)
President of a court:								
Special chamber of a court:								
Supreme Court:								
Council for the Judiciary:	MA					CA	CA	
Judicial inspection body:								
Other independent body (specify): Judicial Council	CA							
Other independent body (specify): Service Tribunal			CA					
Other independent body (specify): President of the Supreme Court	FS		CA					
Other independent body (specify): President of the NOJ		D						

Ministry/Minister of justice:								
Other ministry than min. of justice (specify): ...								
Parliament:						D	D	D
Head of state: if applicable- on advice of ...		D		D	FS			

1.2.1. If the procedures mentioned above are different for the judges and/or the President of the Supreme administrative court or the Council of State, please describe these differences:

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Note:

The appointment procedure of Supreme Court judges:

The procedure is more or less the same as the application procedure for any other judge's position, although in practice the applicants are senior judges with long judicial experience.

- I. *The President of the Curia informs the President of the NOJ when a judge's position becomes empty.*
- II. *The President of the NOJ announces a public call for applications to the empty judiciary position.*
 - a. *To be appointed as a judge an applicant has to:*
 - i. *be Hungarian citizen*
 - ii. *have the capability to act*
 - iii. *have a university degree in law*
 - iv. *have passed the professional legal exam*
 - v. *give a property declaration*
 - vi. *have worked at least one year in a position in which the professional legal exam is needed*
 - vii. *pass a physical and psychical examination*
 - viii. *be at least 30 years of age.*
- III. *The competent division (criminal law division, civil law division, economical law division or labour and administrative law division) of the Curia forms an opinion upon the applicants by a secret ballot.*
- IV. *The judicial council of the Curia forms an opinion about the applicants and ranks them by giving points to evaluate their skills and attributes.*
- V. *The President of the Curia submits a proposal to the President of the Republic who should be appointed as a judge.*

- b. *The President of the Curia can only propose the applicant who is the 1st, 2nd or the 3rd in the ranking formed by the judicial council. If he/she suggests the 2nd or the 3rd in order, he/she must explain the reasons to the NJC. The 2nd or the 3rd in ranking can only be suggested to be appointed if the NJC gives its consent.*

VI. *The President of the Republic has the right to decide upon the appointment of a judge, or if the successful applicant is already a judge, than the President of the NOJ transfers the judge to the Curia*

Those applicants who were not appointed have the right to file a complaint against the decision. The complaint shall be adjudicated by the Administrative and Labour Court.

The dismissal procedure of Supreme Court judges:

The procedure is very similar as the dismissal procedure for any other judge.

I. The reasons for the dismissal of a judge are stated in law:

- a) if the judge resigned,
- b) if the judge is ineligible for the fulfillment of the judicial office for health reasons on a long-term basis or was declared ineligible in the course of the inaptitude proceedings (by the Service Tribunal)
- c) if a prison sentence or a sentence of community service was imposed on the judge on a final basis or the judge was subjected to forced psychiatric treatment,
- d) if the judge failed to take the judicial oath within the time limit,
- e) if the judge loses his/her Hungarian citizenship or the capability to act,
- f) if the judge was elected as a Member of Parliament, Member of the European Parliament, local municipality board member or mayor or was elected or appointed as a state leader
- g) if the judge enters into a legal relationship with an international organisation or any of the agencies of the European Union,
- h) if the judge has completed the applicable old-age pension age or before the completion of this upper age limit, requests his retirement
- i) if, in disciplinary proceedings instituted against the judge, removal from the office of judge was proposed as a final disciplinary sanction,
- j) if it has been found in a judicial review procedure initiated against the result of the call for applications that the conditions for appointment as a judge had not been fulfilled,

k) if the judge willfully fails to meet the obligation to make a property declaration or willfully states data or facts incorrectly,

l) if the judge fails to meet his obligation to prove that he/she no criminal record, or is not prohibited from professions requiring a university degree in law,

m) if the judge fails to attend the medical examination ordered by the president of the court because of the possibility of the health-reasoned based ineligibility of the judge,

n) if the judge is appointed as the rector of a state institution of higher education or the head of a research centre or research institute,

o) if the judge terminated his service relationship unlawfully.

II. If such reasons arise the President of the Curia informs the President of the NOJ.

III. The President of the NOJ submits a proposal to the President of the Republic upon the dismissal of the judge.

IV. The President of the Republic has the right to decide upon the dismissal of a judge.

Appointment of the President of the Supreme Court

- The candidate for the presidency of the Curia is suggested by the President of the Republic.
 - a. The candidate must be a judge appointed for an indefinite period with at least 5 years judicial practice.
- The committee of the Parliament that is responsible for justice issues hears the candidate.
- The NJC hears the candidate and forms an opinion about him/her.
- The Parliament elects the candidate with the 2/3 majority of the votes for 9 years. Re-election is possible.

Dismissal procedure of the President of the Supreme Court

The mandate of the President of the Curia shall be terminated upon:

- a) the expiry of the period of his/her mandate,
- b) upon the termination of his/her legal relation of service as a judge,
- c) resignation,
- d) the declaration of incompatibility,
- e) discharge,
- f) the deprivation of his/her office.

If the president of the Curia fails to eliminate any incompatibility within 30 days from the day of his/her election, or if a cause of incompatibility is raised against him/her during the term of exercising the office, the Parliament shall, on the written motion of the President of the Republic, – after requesting the opinion of the Parliament's committee dealing with cases of incompatibility – pass a decision on declaring the incompatibility in 30 days upon receiving the petition. Incompatibility means

The mandate shall be terminated by way of discharge if the president of the Curia cannot perform his/her official duties for more than 90 days for a cause not attributable to him/her. Discharge may be initiated by the President of the Republic.

The mandate shall be terminated by way of deprivation of office, if the president of the Curia fails to perform his/her official duties for more than 90 days for a cause attributable to him/her, or if he/she has become unworthy to the office due to any of his/her acts, conducts or omissions. The motion aimed at the deprivation of office may be initiated with the Parliament by the President of the Republic or by the decision of NJC passed with the two-thirds of the votes of its members.

The motion shall be examined by the Parliament's committee dealing with justice affairs and it shall put forward a proposal for the Parliament regarding the contents of the decision.

The Parliament decides upon the dismissal of the President of the Curia with the 2/3 majority of the votes.

If the mandate of the president of the Curia is terminated by way of the expiry of the fixed term, he/she shall be appointed without competition to a post of president of panel at the Curia.

If the mandate of the president of the Curia is terminated prior to the expiry of the fixed term, he/she shall be posted to the place of his/her former post, in a judicial posting ranked at least on the same level as his/her former posting.

1.3. What was the total number of all judges that were dismissed in 2014 (e.g. as a consequence of disciplinary proceedings or criminal conviction; excluding other grounds such as incompatibility, illness, resignation, retirement)?

[if only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: : 0 / N/A

If possible, specify this number for judges in different areas (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

1.4. Can a judge appeal if he/she is dismissed?

Yes

No

1.4.1. If yes, which authority or body decides on such an appeal?

Council for the Judiciary

Other independent body (specify): ...

Court responsible for disciplinary measures for judges (e.g. disciplinary senate, civil service court...)

Another court / President of another court

Higher court / President of a higher court

Administrative and Labour court / President of the Administrative Court

Supreme Court / President of the Supreme Court

Constitutional Court / President of the Constitutional Court

Other (specify): ...

1.4.2. What was the total number of appeals against dismissals of judges in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: : 0 / N/A

If possible, specify this number for judges in different areas (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

1.5. Evaluation, promotion, disciplinary measures and training of judges

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given.]

- decision on the evaluation of a judge
- evaluation of the performance management of courts
- decision on the promotion of a judge
- adoption of ethical standards
- application of ethical standards
- proposal for the appointment of a member of the disciplinary body for judges
- decision on the appointment of a member of the disciplinary body for judges
- proposal for a disciplinary decision regarding a judge

- i) disciplinary decision regarding a judge (all bodies issuing disciplinary decisions)
- j) decision on the follow-up to a complaint against the judiciary/a judge
- k) decision on the program/content of training for judges

	a)	b)	c)	d)	e)	f)	g)	h)	i)	j)	k)
President of a court:	X							X		X	
Special chamber of a court:											
Higher court:											
Supreme Court:											
Council for the Judiciary:			X	X			X				X
Judicial inspection body:											
Other independent body (specify): Service Tribunal					X				X		
Other independent body (specify): President of the National Office for the Judiciary		X						X			X
Other independent body (specify): conference of judges						X					
Ministry/Minister of justice:											
Other ministry than min. of justice (specify): ...											
Parliament:											
Head of state: if applicable- on advice of ...			X								
Other (specify): ...											

Note:

The evaluation of judges:

According to the relevant legislation the judicial activity of the judges shall be evaluated regularly.

The first appointment of a judge is for a definite period of three years. After this period comes the first evaluation.

The evaluation is carried out by the head of the competent department of the regional court, regional court of appeal or the Curia – depending upon the service post of the judge. According the result of the evaluation carried out by the leader of the department, the president of the court can evaluate the judge as:

- a) excellent, suitable for promotion,
- b) excellent and fully eligible,

- c) eligible,
- d) ineligible.

After the definite period appointment, judges are appointed for an indefinite term. During their career from this point, judges are evaluated

- next time in the third year,
- from this point in every eighth year.

A judge's judicial activity shall be evaluated on an extraordinary basis if

- a) suspicion emerges that the judge is unable to perform his/her judicial activities because of professional reasons,
- b) it is requested by the judge himself/herself,
- c) a case is not decided within two years and a review of the file establishes that the delay was caused by the misconduct of the judge

If the judge disputes the result of the evaluation he/she may submit an appeal to the Service Tribunal.

If a judge is evaluated as ineligible, the president of the court shall call upon the judge to resign from his/her office within 30 days.

Promotion of judges

If by promotion we mean becoming a judge at a higher court, or becoming a court executive, this can be only a result of an open application procedure (detailed above).

Although there is a possibility to receive the title of "the honorary judge of the Curia", "the honorary judge of the Regional Court of Appeal", or "the honorary judge of the Regional Court". This possibility allows lower court judges who have a long judicial career to receive the title and salary of a higher court judges without leaving their position.

In the case of an "excellent, suitable for promotion" or "excellent and fully eligible" evaluation grade and minimum 6 years judicial practice at the given court level the NJC may award these titles to a judge of a lower court.

Disciplinary measures against judges

In disciplinary cases of judges and in related compensation cases, as well in legal disputes arising from the professional evaluation of the judicial and leadership activities of judges, the service court shall proceed.

If the suspicion of a disciplinary breach emerges in respect of a judge not holding the position of a court executive, disciplinary proceedings shall be initiated

- a)* by the president of the Curia in the case of the judges of the Curia,
- b)* by the president of the regional court of appeal in the case of regional court of appeal judges,
- c)* by the president of the regional court in the case of regional, district court and administrative and labour court judges.

If the suspicion of a disciplinary breach emerges in respect of a court executive, the person exercising the right of appointment shall initiate disciplinary proceedings.

Disciplinary sanctions that may be imposed on judges committing disciplinary breaches:

- a)* reprimand,
- b)* censure,
- c)* demotion by one pay grade,
- d)* demotion by two pay grades,
- d)* exemption from the court executive position,
- e)* motion for dismissal from the judge's position.

Ethical standards

The Association of Hungarian Judges adopted a Code of Ethics in 2005; the compliance with this code was supervised by the National Judicial Ethical Council established by The Association of Hungarian Judges.

The new Ethical Code was adopted at a session on 10 November 2014 by National Judicial Council, it will come to effect on 1 January 2015.

A judge commits a disciplinary breach if he culpably curtails or jeopardises the reputation of the judicial profession by virtue of his lifestyle or behavior. The disciplinary procedure is carried out by the Service Tribunal.

Training

The training of the Hungarian judges and judicial employees is mainly the responsibility of the Hungarian Academy of Justice. The Academy is the part of the NOJ.

The Academy organizes legal and "soft skill" (e.g. psychology) trainings for the whole country, besides each regional court and regional court of appeal has it's own decentralized trainings for its judges and judicial employees. Organizing these local trainings is also among the duties of the Academy.

For trainee judges - during their three year traineeship - the court where they work organizes regular trainings that cover all the relevant legal fields.

For court secretaries - who already have passed the bar exam - the Academy organizes a preparation training for the judicial work (ethical course, criminal law course, civil law course and mock trials).

The obligatory training courses for judges also take place at the Academy. Judges have to attend to certain professional courses and in every three years they have to present a certification of attendance to the president of the court where they work.

1.6. Financial resources

1.6.1. Authorities and bodies responsible for financial resources

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given]

- a) involvement in the preparation of the "budget allocated to courts"²
- b) formal proposal on the budget allocated to courts
- c) adoption of the budget allocated to courts
- d) management of the budget allocated to courts

² General government total expenditure on COFOG (classification of the functions of government) group 03.30 'Law courts', which includes "financial resources allocated to the "administration, operation or support of civil and criminal law courts and the judicial system, including enforcement of fines and legal settlements imposed by the courts and operation of parole and probation systems; legal representation and advice on behalf of government or on behalf of others provided by government in cash or in services. Includes: administrative tribunals, ombudsmen and the like. Excludes: prison administration." This is National Accounts data currently provided under the ESA95 framework.

- e) evaluation/audit of the budget allocated to courts
a) definition of criteria for determining financial resources (see 1.6.2.)

	a)	b)	c)	d)	e)	f)
President of a court:				X		X
Special chamber of a court:						
Higher court / President of the Higher court:						
Supreme Court / President of the Supreme Court:						
Council for the Judiciary:	X				X	
Judicial inspection body:						
Other independent body (specify): President of the National Office for the Judiciary	X	X				X
Ministry/Minister of justice:						
Other ministry than min. of justice (specify): ...						
Parliament:			X			
Head of state: if applicable- on advice of ...						
Other (specify): National Accounting Office					X	

1.6.2. What are the prescribed methods or criteria for determining financial resources for the judiciary? [several answers possible] [Please electronically tick the checkbox ("☑") next to the corresponding reply (by clicking on it in Microsoft Word for Windows), or (in case of difficulties with the checkboxes) by marking relevant reply in bold or highlighting it.]

amount based on historic and/or realised costs

number of incoming cases: specify for which instance: 1st / 2nd / all / N/A

number of resolved cases: specify for which instance: 1st / 2nd / all / N/A

number of resolved cases - based on an evaluation of the cost for courts

other (specify): The 169. § (2) of the Act (CLXII) 2011 on the status and remuneration of judges states, that the salaries of judges shall be determined in the Act on the central budget in such a way that the amount shall not be lower than it had been in the previous year. This determines a relevant part of the budget of the courts.

1.6.3. Where have these criteria been defined? [several answers possible]

In well-established practice

In law

Other (specify): ...

Note:

The President of the NOJ:

a) shall elaborate – with regard to the opinion of the NJC and the Curia – his/her proposal on the budget of the courts and his/her report on the implementation of the budget, to be submitted without modification by the Government to the Parliament as part of the Bill on the budget and the Bill on the implementation of the budget,

b) shall be invited to and participate at the sessions of the Government and the Parliament's budgetary committee discussing the budget of the courts' heading as a part of the Bill on the budget and the Bill on the implementation of the budget,

d) shall exercise the duties related to the financial management of the courts,

e) shall direct the internal control of the courts,

The NJC:

a) shall express its opinion on the budget of the courts,

b) shall examine the economic and financial management of courts,

c) shall express opinions on the detailed conditions and levels of other benefits.

The National Accounting Office examines the financial management of the court system.

1.7. Governance of the Judiciary

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country;

if relevant, you can additionally insert the following explanations:

"FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given.]

a) general management of a court

b) adopting press guidelines for relations between courts and the media

c) communicating with the media (e.g. on questions regarding judgments, court functioning)

d) decisions regarding the implementation and use of Information and Communication Technology in courts

e) decisions regarding court buildings

f) decisions regarding court security

	a)	b)	c)	d)	e)	f)
President of a court:	X		X	X		X
Higher court / President of the Higher court:						
Supreme Court / President of the Supreme Court:						
Court service governed by the Judiciary:						
Council for the Judiciary:						
Judicial inspection body:						
Other independent body (specify): President of the NOJ		X		X	X	
Court service governed by the Ministry of justice:						
Ministry/Minister of justice:						
Other ministry than min. of justice (specify): ...						
Other (specify): ...						
Judge responsible for media relations						
Press officer at a court			X			

Note:

It is the duty of the president of the court – or of the person who the president delegates this obligation – to inform the public about any finished or pending case of the court.

1.7.1. Authorities and bodies responsible for court staff (other than judges)

[Please insert an "x" into the box that corresponds to the situation in your country; several answers possible; insert "N/A" when the situation is not applicable in your country; if relevant, you can additionally insert the following explanations: "FS" (final selection), "CA" (consultative advice – the body can provide its opinion), "MA" (mandatory advice – the body must provide its opinion, the content of which is either binding or not for the deciding authority), "D" (decision). Please insert "OF" (obligation to follow) if the deciding authority has an obligation, either by law or practice, to follow the opinion given.]

- a) decision regarding the total number of court staff (other than judges) at all courts
- b) decision regarding the number of court staff at particular courts
- c) appointment and dismissal of court staff
- d) decisions regarding the transfer of court staff from one court to another
- e) decisions regarding the promotion/disciplinary matters concerning court staff
- f) other human resource management decisions on court staff (e.g. holidays)

	a)	b)	c)	d)	e)	f)
President of a court:	CA	CA	D	D	D	D
Higher court / President of the Higher court:						
Supreme Court / President of the Supreme Court:						
Court service governed by the Judiciary:						
Council for the Judiciary:						
Judicial inspection body:						
Other independent body (specify): President of the National Office for the Judiciary	D	D				
Court service governed by the Ministry of justice:						
Ministry/Minister of justice:						
Other ministry than min. of justice (specify): ...						
Other (specify): ...						

1.8.1 Composition of the Councils for the Judiciary according to the nomination process

	Total	Court presidents (ex officio)	Judges (appointed or proposed by their peers)	Judges (elected by their peers)	Prosecutors (elected by their peers)	Prosecutor General (ex officio)	Appointed by associations of lawyers / legal practitioners	Elected/appointed by the Parliament	Appointed by the Head of State / Prime Minister / Government / Minister of justice	Minister of justice (ex officio)	Appointed/nominated by other bodies/authorities
BE	44			22				22			
BG	25	2		6	5	1		11			
DK	11		6				1				4
IE	18	5		5			2		3		3
ES	21	1	12					8			
FR	22	1		6	6	1	1	4	2		1
HR	11			7				2			2
IT CSM	27	1		12	4	1		8	1		
IT CPGA	15	1		10				4			
LV	15	2		7		1	3	1		1	
LT	23	3		20							
HU	15	1		14							
MT	10	1		4		1	1		2		1
NL	4		2						2		
PL	25	2		15				6	1	1	
PT	17	1		7				7	2		
RO	19	1		9	5	1		2		1	
SI	11			6				5			
SK	18			9				3	6		
UK (EN + WL)	29	9	19								1
UK (NI)	11		11								
UK (SC)	16	4	12								

1.8.2. Powers of the Councils for the Judiciary

	Providing opinion on draft laws relating to the judiciary	Training of judges (providing guidelines/supervising or deciding on the program/content)	Proposing candidates for appointment as judges (courts of first instance)	Appointing judges (1st instance courts)	Proposing dismissal of judges (courts of first instance)	Dismissing judges (courts of first instance)	Transferring judges (without their consent)	Taking disciplinary decisions on judges	Adopting ethical standards	Promoting a judge	Advisory body / court management	Deciding on evaluation of a judge	Decision regarding number of court staff at particular courts	Allocating budget to particular courts	Decisions on implementation & use of ICT in courts
BE	1	1	1						1						
BG	1	1		1	1	1	1	1	1	1		1	1	1	1
DK	1	1									1		1	1	1
IE	1										1		1		1
ES	1	1	1		1		1	1	1	1		1			1
FR	1		1	1	1	1	1	1	1	1					
HR	1	1		1		1	1	1		1		1			
IT	1	1	1	1	1	1	1	1		1	1	1			1
LV	1	1			1										
LT	1	1		1		1	1			1	1	1	1	1	1
HU	1	1	1						1	1					
MT	1				1				1			1			
NL	1	1							1	1				1	1
PL	1	1	1		1				1						
PT	1	1	1	1	1	1	1	1	1	1		1			
RO	1	1	1	1	1		1	1	1	1		1	1		
SI	1	1	1	1	1	1	1		1	1		1			
SK	1	1	1		1				1	1					
UK (EN+WL)										1	1				
UK (NI)											1				1
UK (SC)											1				

2. PROCEDURES AND SANCTIONS FOR PROTECTING JUDICIAL INDEPENDENCE³

2.1. When a judge or an authority considers that independence of an individual judge or of the judiciary is threatened, are there any specific procedures, other remedies or sanctions⁴ for protecting it?

Yes

No

2.1.1. If yes, who can launch such a request or a procedure?

A judge who believes his/her independence is threatened

President of a court

Judicial inspection body

Council for the Judiciary

Other independent body (specify): ...

Public Prosecution Service

Minister of justice

Other (specify): According to the Hungarian Criminal Procedural Code, any official who encounters any criminal activity (e.g. bribery) during his/her work shall report it to the competent authority.

2.1.2. What was the total number of such complaints in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ...";

Please specify for each authority or body (please add more than two, if necessary)]

Complaints from judges: :..... / N/A

Complaints from the Council for the Judiciary: :..... / N/A

Complaints from ...: :..... / N/A

2.1.3. If yes, which authority or body has the power to react to such complaints from judges or authorities for protecting judicial independence? [several answers possible]

Council for the Judiciary

Other independent body (specify): ...

Judicial inspection body

Court

³ [Recommendation CM/Rec\(2010\)12](#) of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, paras. 8, 13 and 14. See also European Network of Councils for the Judiciary, Distillation of ENCJ Guidelines, Recommendations and Principles, Report 2012-2-13, para. 7.

⁴ "Sanctions against persons seeking to influence judges in an improper manner", Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 14.

- President of a court
- Higher court / President of a higher court
- Supreme Court / President of the Supreme Court

X Public Prosecution Service

- Other (specify): ...

**2.1.4. If yes, what are the measures that these authorities can take on the basis of a request in order to protect judicial independence?
What was the total number of such measures in 2014?**

[[several answers possible; if only an estimate is available, add "approx. ..." or "fewer than ...".]

- Notification to other authorities:, from (specify): ...
- Sanctions (criminal, administrative, at first instance)⁵:, from (specify): ...
- Press releases / formal declarations on judicial independence:, from (specify): ...
- Other (specify):, from (specify): ...
- N/A

3. IMPARTIALITY – WITHDRAWAL AND RECUSAL⁶

3.1. Is a judge obliged to withdraw from adjudicating a case if the judge believes that impartiality is in question or compromised or that there is a reasonable perception of bias?

X Yes

- No

3.1.1. If yes, what is the source of the obligation to withdraw from adjudicating a case?

- A well-established practice of judges
- Set in an act adopted by a court
- Set in an act adopted by the Council for the Judiciary
- Set in an act adopted by the Minister of justice

X Set in law

- Other (specify): ...

⁵ "Sanctions against persons seeking to influence judges in an improper manner", Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 14.

⁶ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, paras. 59-61. See also European Network of Councils for the Judiciary, [London declaration on judicial ethics](#), June 2010; and European Network of Councils for the Judiciary, [Judicial Ethics Report](#) 2009-2010

3.1.2. If a judge disrespects the obligation to withdraw from adjudicating a case, could the judge be subject to a sanction?

Yes (specify; e.g. type of disciplinary measure): ...

No

3.2. Which authority or body takes the first decision on a request for recusal by a party who considers that a judge is partial / biased? [several answers possible]

The single-judge who is adjudicating in the same case (when a recusal request is directed against this judge)

The panel of judges adjudicating in the same case (when a recusal request is directed against a member of this panel or against the whole panel)

Another judge at the same court (e.g. selected on seniority or appointed)

A special chamber of the same court

President of the same court

Another court / President of another court

Higher court / President of a higher court

Supreme Court / President of the Supreme Court

Council for the Judiciary

Other independent body (specify): ...

Ministry of justice / Minister of justice

Other (specify): ...

3.2.1. In case a different authority or body decides in different types of proceedings (civil, administrative...), please describe the differences and specify for which proceedings the replies under 3.2. refer to:

3.3. If available what was the total number of successful recusal challenges by parties in 2014 in which a lack of impartiality or a reasonable perception of bias was established?

[If only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: :..... / N/A

If possible, specify this number for different types of proceedings (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

3.4. Is an appeal against a decision on a request for recusal possible?

Yes

No

3.4.1. If yes, which authority or body decides on such an appeal?

- Another judge at the same court (e.g. selected on seniority or appointed)
- A special chamber of the same court
- President of the same court
- Another court / President of another court
- Higher court / President of a higher court
- Supreme Court / President of the Supreme Court
- Council for the Judiciary
- Other independent body (specify): ...
- Minister of justice
- Other (specify): ...

3.4.2. What was the total number of appeals against decisions on recusal requests in 2014?

[for example, when a party to the case requested a judge to be recused but this request was rejected, and then this party appealed against the rejection; if only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: :..... / N/A

If possible, specify this number for different types of proceedings (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

Note:

The Hungarian procedural codes declare that a judge who is biased is excluded from the case. If such motion is filed by the parties the judge makes a declaration if he/she feels biased.

- If the judge declares that he/she cannot decide the case impartially the president of the court allocates the case to another judge of the court.
- If the judge declares he/she is not biased, another judge of the court examines the situation and decides about the exclusion or non-exclusion of the judge.

Although there is no appeal against the decision according to the exclusion or non-exclusion of the judge, the possible bias and the non-exclusion can also be mentioned in the appeal against the final decision of the case.

4. IRREMOVABILITY - TRANSFER OF JUDGES WITHOUT THEIR CONSENT⁷

4.1. Can a judge be transferred (temporarily or permanently) to another judicial office (to other judicial duties, court or location) without his/her consent?

Yes

No

4.1.1. If yes, which authority or body decides on a (temporary or permanent) transfer of a judge without his/her consent? [if several authorities are responsible and have different powers depending on the ground for transfer, please write "for disciplinary reasons", "for organisational reasons" or "for other reasons" next to the relevant authority]

Council for the Judiciary

Other independent body (specify): ...

Court responsible for disciplinary measures for judges (e.g. disciplinary senate, civil Service Tribunal...)

President of the same court

Another court / President of another court

Higher court / President of a higher court

Supreme Court / President of the Supreme Court

Constitutional Court / President of the Constitutional Court

Ministry of justice / Minister of justice

Head of state

Other (specify): **President of the NOJ**

4.2. For what reasons can a judge be transferred without his/her consent? [several answers possible]

For disciplinary reasons

For organisational reasons (specify; e.g. closure of a court):

When a court is closed or the venue of the court is substantially reduced the President of the NOJ transfers the judge on a final basis to another court without an application process.

It is the authority of the president of the regional court to temporary transfer (delegate) a judge who is employed at the regional court or at the district courts under that regional court if the delegation is between these district courts or between the regional court and the district courts.

⁷ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 52. See also European Network of Councils for the Judiciary, Development of Minimal Judicial Standards III, Minimum Standards regarding evaluation of professional performance and irremovability of members of the judiciary, Report 2012-2013, pp. 18-20, 23 (point 4.21.)

*In any other case, the delegation of the judge is the authority of the president of the NOJ.
If the judge gives his/her consent the maximum time of the delegation is not defined, but it still has to be for a certain period of time.*

The judge can have judicial review at the Administrative and Labour Court against the delegation decision.

There are some judges that cannot be delegated at all to a court away from their residence without their consent:

- *women judges from the diagnose of their pregnancy until the child becomes three years old,*
- *a judge who is a single mother/father,*
- *a judge who is taking care of a relative with a permanent disease,*
- *a judge who has a permanent illness.*

For other reasons (specify): ...

4.2.1. At what level are these reasons prescribed?

In law

Other (specify): ...

4.3. In case a judge is transferred without his/her consent is he/she guaranteed an equivalent post (in terms of a position, salary...)?

Yes

No

4.4. What was the total number of judges transferred without their consent in 2014?

[if only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: : 0 / N/A

If possible, specify this number depending on the reason for transfer without consent:

For disciplinary reasons:

For organisational reasons:

For other reasons:

If possible, specify this number for judges in different areas (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

4.5. Can a judge appeal if he/she is transferred without his/her consent?

Yes

No

4.5.1. If yes, which authority or body decides on such an appeal?

Council for the Judiciary

Other independent body (specify): ...

- Court responsible for disciplinary measures for judges (e.g. disciplinary senate, civil Service Tribunal...)
- President of the same court
- Another court** / President of another court
- Higher court / President of a higher court
- Supreme Court / President of the Supreme Court
- Constitutional Court / President of the Constitutional Court
- Minister of justice
- Head of state
- Other (specify): ...

4.5.2. What was the total number of appeals against transfers of judges without their consent in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ...".]

In all courts: : 0 / N/A

If possible, specify the number of appeals depending on the reason for transfer without consent:

For disciplinary reasons:

For organisational reasons:

For other reasons:

If possible, specify the number of appeals by judges in different areas (civil, administrative...):

... : :..... / N/A

... : :..... / N/A

The temporary transfer (delegation) of judges

Delegation means that the judge carries on his/her judicial activity temporary at another court. It always covers a certain period of time, after the delegation period ends the judge will carry on his/her work in his/her former position.

A judge can be delegated to another court to guarantee the even distribution of workload between courts or to support the development of his/her professional skills.

It is the authority of the president of the regional court to delegate a judge who is employed at the regional court or at the district courts under that regional court if the delegation is between these district courts or between the regional court and the district courts.

In any other case, the delegation of the judge is the authority of the president of the NOJ.

If the judge gives his/her consent the maximum time of the delegation is not defined, but it still has to be for a certain period of time.

Without his/her consent a judge only can be delegated for one year within a three year period and there are some judges that cannot be delegated at all to a court away from their residence without their consent (e.g a judge who is a single mother/father).

The opinion of the delegated judge must be heard. If the reason of the delegation is the professional development of the judge he/she only can be delegated by the request of the president of that court where the judge will be delegated to.

If the judge of the regional court is delegated somewhere outside of the venue of the court, or a judge of the regional court of appeal is delegated, the President of the NOJ must hear the opinion of the president of that court. The opinion of the competent judicial council also has to be heard.

The judge can have judicial review at the Administrative and Labour Court against the delegation decision.

There are some judges that cannot be delegated at all to a court away from their residence without their consent:

- women judges from the diagnose of their pregnancy until the child becomes three years old,
- a judge who is a single mother/father,
- a judge who is taking care of a relative with a permanent disease,
- a judge who has a permanent illness.

Practically almost 100% of the delegations were carried out with the consent of the judges.

Transferring of judges

It is possible for a judge to continue his/her judicial work at a court different from the one to where he/she has been originally appointed, in the following cases:

- the judge successfully applied to an empty judicial position at another court,
- the court where the judge has been appointed to is dismissed or the venue of the court is substantially reduced and it is not possible to employ the judge at that court anymore.

To apply to a judge's position at another court is the decision of the judge. If his/her application was successful and he/she wins the position, he/she will be transferred to that court. In this case the transfer is practically an appointment (but to another court) so the same procedure has to be taken as detailed above.

In the other case when a court is closed or the venue of the court is substantially reduced the President of the NOJ transfers the judge to another court without an application process.

First the President of the NOJ offers the judge the currently empty positions at another court of the same level (or maximum one level lower or one level higher) of which the application procedure has not been closed yet. The judge can choose from these empty positions.

If there is no such position to be offered or the judge doesn't choose from them the President of the NOJ transfers the judge to another court of the same level (or maximum one level lower) – with a special notice on the behalf of the judge. If the judge is transferred to a lower level court he/she gets the same salary as before and he/she is allowed to use his/her former title.

Before the decision the opinion of the competent judicial council has to be heard.

The judge can have judicial review of the decision at the Administrative and Labour Court.

Practically there were no judges to be transferred against their will as no courts were closed lately.

5. ALLOCATION OF CASES⁸

5.1. Are the criteria for allocating cases within a court defined?

Yes

No

5.1.1. If yes, where have these criteria been defined? [several answers possible]

In well-established practice of the court

In an act adopted by the court

In implementing regulations

In law

Other (specify): ...

5.2. How are cases assigned to judges at the first instance courts?

President of the court assigns cases

A member of the court staff assigns cases (e.g. listing officer)

A special chamber of the court assigns cases

The cases are assigned randomly (e.g. through a computerized system)

The cases are assigned according to a pre-defined order (e.g. alphabetic, subject matter)

⁸ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 24.

Other (specify): ...

5.3. Is the allocation of cases subject to supervision (e.g. regular checks of the practice of allocation)?

Yes

No

5.3.1. If yes, by whom? [several answers possible]

By court staff

By the President of the court

By the Council for the Judiciary

By another independent body (specify): Judicial Council

By the Judicial inspection body

Other (specify): ...

5.3.2. In the last five years, has the system for the allocation of cases been subject to a general review or assessment to check for any potential deficiencies?

Yes

No

5.3.2.1. If yes, what was the follow-up to the findings of such a general review/assessment? [several answers possible]

Changes to the system of allocation of cases

Changes to the practices concerning the allocation of cases

Other (specify): Courts use different methods for the allocation the cases.

Note:

In Hungary the allocation of cases is regulated by laws and other statutory provisions and also by internal rules of court, whereas the role of judicial practice is limited to the development of internal rules of court.

The case distribution regime is defined by the president judge of each court, at the latest – in accordance with the relevant legislation – by 10 December of the previous year. The case distribution regime is adopted based on the opinions of the relevant chamber of judges and the relevant college of the given court, however, such opinions are not binding.

The substantive rules and criteria for the internal case distribution regime of a court may also be defined – within the framework of the law – by the Organisational and Operational Regulations of the given court.

Based on the afore-mentioned statutory provisions, the case distribution regimes of courts (the Curia, regional courts of appeal, regional courts, district courts, administrative and labour courts) shall be determined for the given year according to the views:

- of the chamber of judges,
- of the competent division,

by the president of the court. That case distribution regime shall be communicated to the judges and shall be published:

- on the courts' website,
- at the clerk's office providing customer services.

The case distribution regime is determined by the President of the Curia, or the president judges of regional courts of appeal and the regional courts. On practical terms, the colleges of the Curia, and those of the regional courts of appeal and of the regional courts prepare a recommendation for their own case distribution regime, which are later adopted by the president judge. The president judges of district courts and administrative and labour courts are relatively independent as well within the framework of the organisational and operational regulations of the courts. In these courts, the president judges draw up proposals for the case distribution regime, usually following consultation with the judges. Considering that the case distribution regime is assessed by the chambers of judges and colleges, these bodies are entitled to address the case distribution regime any time.

Allocation of cases by means of a computerised method is used in corporate cases which are computerised in their entirety. In other categories of cases, allocation takes place manually in a sense that a given case is not assigned to a judge by computerised methods. Where cases are allocated 'automatically' it is or may be carried out by the court administration office in charge of keeping records of cases by assigning cases to judges according to the case distribution regime (e.g. on the basis of odd and even case numbers, or on the basis of a specific row and number of the cases received).

6. INTERNAL INDEPENDENCE⁹

6.1. In your system, are there hierarchically superior courts/judges with the power to ensure on their own initiative the uniformity or consistency of judicial decisions delivered by the courts/judges under their supervision (outside of an appeal system, the precedent doctrine or a preliminary ruling system)?

Yes

No

6.1.1. If yes, which courts/judges have such a power?

Division heads at particular courts

Presidents of the courts

Appeal courts / Presidents of appeal courts

Supreme Court / President of the Supreme Court

Other (specify): ...

6.1.2. If yes, what kind of decisions can hierarchically superior courts/judges deliver on their own initiative to ensure the uniformity or consistency of judicial decisions outside of an appeal system or the precedent doctrine?

An advisory opinion of general application (for all courts/judges)

An obligatory decision of general application (for all courts/judges)

An advisory opinion of concrete application (to a specific judicial decision)

An obligatory decision of concrete application (to a specific judicial decision)

A practice statement or direction applicable to particular kinds of cases

Other (specify): ...

6.1.3. If yes, what was the total number of such decisions in 2014?

[If only an estimate is available, add "approx. ..." or "fewer than ..."]

In all courts: : 16 / N/A

If possible, specify this number for different types of proceedings (civil, administrative...):

criminal advisory opinion: 3 / N/A

civil advisory opinion: 1 / N/A

administrative and labour advisory opinion: 8 / N/A

civil obligatory decision: 3 / N/A

administrative and labour obligatory decision: 1 / N/A

⁹ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para. 22.

Note:

Advisory opinions of general application

1. Guiding decisions of the Curia

For the purpose of selecting and publishing the guiding resolutions and the guiding decisions, guiding publication panels in the criminal, civil law, economic law and public administration and labour fields shall operate at the Curia. The guiding publication panel shall consist of the chairman and 4 more members.

If the Curia passed a ruling of particular significance the chair of the council shall notify the head of the competent division of the Curia. The head of the division shall present the ruling to the guiding publication panel which shall decide on the publication of the ruling.

The judges are not obliged to follow these rulings but they play an important role in the national level harmonization of the jurisdiction.

2. Jurisprudence analysis teams of the Curia

It is the duty of the jurisprudence analysis teams to analyze the judicial practice. The topics to be investigated shall be determined by the President of the Curia annually, after due consultation with the divisions of the Curia.

The head and members of the jurisprudence analysis teams shall be appointed by the President of the Curia from among the judges of the Curia. The head of the task force may also involve judges posted at lower courts and theoretical and practical experts active in the field of the topic of investigation.

The jurisprudence analysis team shall prepare a summary opinion on the result of their investigation. The completed summary report shall be debated by the competent division of the Curia and it shall be published on the website of the Curia.

3. Legal harmonization decisions of the Curia

If it is necessary for the harmonization of the judicial practice, the head of a judicial division of the regional court of appeal or the regional court shall propose to the Curia to initiate a harmonization procedure.

A harmonization procedure may take place in the following cases:

- a) when it is necessary for the development of the judicial practice and for securing a harmonized adjudicating practice, or to amend or annul a uniformity decision passed earlier,
- b) if any panel of the Curia intends to defer from the resolution – published as a guiding court resolution or guiding decision – of panel of the Curia.

Legal harmonization decisions are binding on the courts from the day of their publication.