

Hungary/Országos Igazságszolgáltatási Tanács Унгария/Национален съвет по правосъдие

1. To which of the three classic branches of government does the respective Council belong

In order to reinforce the independence of the judiciary, the National Council of Justice is a fully independent legal entity, with its own, by the Parliament approved budget. The Council has been established with regard to the basic principle of independence of the judiciary, and therefore holding in the center the clear separation of the legislative, judicial and executive powers. Consequently, the National Council of Justice is not - and must not be - in any kind of subordinate position to the executive, i.e. the Government. According to the law, neither the Government, nor the Ministry of Justice has any competence or responsibility toward the judiciary.

2. Duration of the mandate of the members of the respective Council

The mandate of the NJC and its elected judge members (alternate members) shall be for a term of six years. An elected member of the NJC may not be recalled.

3. Powers, Functions, Services, Mission of the respective Council

The most important functions of the Council are:

- to appoint and relieve the presidents and vice-presidents of the regional court of appeals; the court of appeals (the county courts), as well as the heads of judicial colleges and the head and the deputy head of its own Office;
- to make recommendations to the President of the Republic on the nomination or relieve of judges;
- to prepare and submit to the Parliament its proposal for the next annual budget in respect of the Chapter of the Justice;
- to be responsible for the implementation of the separate chapter of the National Budget as adopted by the Parliament (includes salaries, costs of functioning and maintaining the courts and their administration, as well as investments in buildings and technologies);
- to guide and oversee the administrative activities of the presidents of courts;
- to exercise the central duties of training of judges;
- to exercise its employer's and personal authority as stipulated in the law;
- to specify the basic principles underlying the organizational and operating rules and regulations of the courts;
- to perform and organize the central duties related to the collection and processing of judicial statistical data;
- to arrange the legal representation of the courts;
- to manage the activities of the Office of the National Council of Justice.

The National Council of Justice exercises its activities and adopts its resolutions in meetings, convened at least once a month. The meetings are convened and chaired by the President.

4. Criteria for nomination and appointment of the members of the respective Council

A candidate judge must have at least five years of experience in judicial practice to be elected to the NJC.

The conference of delegate judges shall elect nine judges from the delegates to participate in the NJC by secret ballot.

Simultaneously with electing the nine regular members, the conference of delegates shall also elect nine alternates.

If the number of alternate members drops below three, in consequence of which the NJC can no longer function properly, a new election shall be arranged to elect replacements to bring the number of alternate members back up to nine.

Votes shall be counted by a body comprising the three most senior and not delegated justices of the Supreme Court.

Delegates are elected by a majority vote by the full council of the Supreme Court, and the plenary session of high court of appeal and county court judges. The full council of the Supreme Court shall delegate one member and the plenary session of high court of appeal judges shall elect one member each.

The plenary session of county court judges shall elect delegates by secret ballot according to the maximum permissible number of judges from all courts of the county, one delegate for forty judges. One additional delegate shall be elected if the last remaining fraction is over twenty.

Judges working in the Bureau and the Ministry of Justice shall vote in the plenary session of the Municipal Court of Budapest, and they shall comprise part of the staff of judges of the Municipal Court of Budapest.

The president judges of the courts referred to in Subsection (1) shall convene the plenary sessions of judges for electing delegates at least four months prior to the expiry of the mandate of the NJC. If the plenary session fails to reach a quorum, it shall reconvene within fifteen days. The reconvened plenary session of judges shall have a quorum regardless of the number of judges present.

Elected delegates shall send their curricula vitae to the Chief Justice of the Supreme Court within eight days following their election.

The Chief Justice of the Supreme Court shall convene the conference of delegates at least two months prior to the expiry of the mandate of the NJC and shall send the curricula vitae to the delegates. If the conference of delegates fails to reach a quorum, it shall reconvene within fifteen days. The reconvened conference of delegates shall have a quorum regardless of the number of judges present.

The minutes containing the results of the election held in the conference of delegates shall be sent to the Chairman of the NJC within three days.

The following persons may not be elected members of the NJC:

- a) any person implicated in a pending disciplinary or criminal proceeding;
- b) any person penalized by a disciplinary action;
- c) any person who is currently being investigated for reasons of unsuitability;
- d) any person who has not participated in judicature for an extended period of time;

e) any person who is related [Subsection (2) of Section 13 of the CPC] to the Chairman of the NJC, the head of the Bureau, the president or vice president judge of a high court of appeal or county court.

5. Composition of the respective Council:

The NJC is a fifteen-member body consisting of nine judges, the Minister of Justice, the Chief Prosecutor, the President of the Hungarian Bar Association, one Member of Parliament appointed by the Constitutional and Justice Committee and one by the Budget and Finance Committee. The NJC is chaired by the Chief Justice of the Supreme Court

6. Staff:

- Number: 167persons
- Qualification

The Bureau is headed by a professional judge. The NJC shall select the director of the Bureau by way of tender procedure. The tender notice shall be published in an official journal. The director of the Bureau shall be appointed for an unspecified term.

The candidate for the office of director of the Bureau

- a) may not be a member of the NJC,
- b) must be able to satisfy the criteria laid down for NJC membership,
- c) may not be a relative [Subsection (2) of Section 13 of the CPC] of any regular or alternate member of the NJC or of any court executive who falls within the appointment authority of the NJC.

Judges may also be appointed to work in the Bureau whether for a fixed or unspecified period, or for specific duties. The NJC shall have exclusive authority to initiate any disciplinary proceeding against a judge appointed to work in the Bureau. Unless otherwise prescribed by law, the provisions pertaining to judges shall also apply to judges appointed to work in the Bureau.

7. Structure

The Office of the National Council of Justice (hereinafter Office) is an independent central budgetary organisation under Treasury control.

Activities of the Office are managed by the National Council of Justice. The Office prepares the meetings of the NCJ, ensures that its decisions are implemented, fulfils administrative tasks related to the NCJ, and performs tasks delegated in its competence by the NCJ and the Chairman of the NCJ.

The Office is managed by the Head of Office, under the management of the President of the NCJ.

Organisation units of the Office are the Presidential Cabinet, the divisions, the separate division, the departments and the National Judicial Academy (hereinafter Academy).

The Separate Department of Financial Control is guided directly by the NCJ, and the Presidential Cabinet is guided directly by the President of the NCJ according to the Rules of Organisation and Operation.

8. What different commissions do you have as part of the respective Council?

Permanent commissions do not operate within the Council. Special commissions can be established on occasional basis in order to solve or manage special significant issues.

9. Important historical events: creation of the respective Council, further changes in its structure, functions, etc.

The Hungarian Constitution created the National Council of Justice (50.§ (4) Art of the Constitution) as a constitutional organization to reinforce of the independence of justice. It started its activities in 1997 and its basic regulation is the Act No. 66. of 1997 on the organization and administration of the Courts.

10. Present and future important projects and events of the respective Council?

The New Constitution of the Republic of Hungary will come into force on the first of January 2012. Since the new Constitution is tight-lipped about the courts and the administration of the courts the detailed rules should be regulated in so called cardinal laws. The establishment of the cardinal laws on the administration of the courts, and on the status of the judges will take place probably in November in 2011.

The first drafts of the mentioned new laws became known in October in 2011. With knowledge of the drafts the administration of the courts will prospectively basically change from the first of January 2012. The National Court Administration Office (NCAO) will take the place of the National Council of Justice. According to the draft law the president of the NCAO shall be elected on the proposal of the President of the Republic by the Parliament for 9 years from among the judges with the two-thirds majority of the members of the Parliament.

The new law would give strong power for the president of the NCAO in personnel matters and in financial questions as well. The president would take over all those rights from the president of the Supreme Court that he practiced as the president of the National Council of Justice from the 1st of March 2011.

In addition to the NCAO the National Council of Judges (NCJ), consisting of 15 members, will begin its operation with the power to supervise the central administrative activity of the president of the NCAO and with the rights to form an opinion on the regulations and recommendations issued by the president the NCAO. The 14 judge members of the NCJ shall be elected by the meeting of the delegates of judges from among the delegates with reference

to the principle that every court level should be represented in the Council and that the number of the court leaders should be limited. The president of the Supreme Court, according to the new name regulated by the new law, the president of the Curia, is ex officio the member of the Council. In addition to this the president of the Curia will not take part in the external administration of the courts any more. The position of the chairman of the NCJ shall be vested on the members in rotation.

11. How is the independence of the respective Council guaranteed?

In order to reinforce the independence of the judiciary, the National Council of Justice is a fully independent legal entity, with its own, by the Parliament approved budget. The Council has been established with regard to the basic principle of independence of the judiciary, and therefore holding in the center the clear separation of the legislative, judicial and executive powers. Consequently, the National Council of Justice is not - and must not be - in any kind of subordinate position to the executive, i.e. the Government. According to the law, neither the Government, nor the Ministry of Justice has any competence or responsibility toward the judiciary.

12. Budget of the judiciary:

- What is the amount of the budget for 2011?

Annual budget of the judiciary: 277 180 000 Euro

- How is it divided for the different allocations?

The courts set up a claim concerning the amount they demand and based on this claim taking into account the related limits stipulated in the Act on Budget, the NJC shall allocate the funds.

- Who manages the budget?

The NJC shall manage the funds allocated under the judiciary chapter.

13. Present composition of the Council:

- Start/end of the mandate

See answers of questions 9 and 10.