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WORKING DOCUMENT 1

on the situation of Fundamental Rights: standards and practices in Hungary (pursuant to the EP resolution of 16 February 2012) - Independence of Judiciary

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I. Introduction

This working document provides an overview of the legal framework governing the independence of the judiciary in Hungary. It refers to the provisions of the Constitution[1] on the judiciary and of the following cardinal laws: Act CLXI of 2011 on "The organisation and administration of courts of Hungary" (AOAC), Act CLXII of 2011 on "The legal status and remuneration of judges of Hungary"(ALSRJ), and Act CLI of 2011 on the Constitutional Court of Hungary.[2] These acts are considered against the background of the existing European standards on the independence of the judiciary, namely, Recommendation (2010)12 of the Committee of Ministers of the Council of Europe and the European Charter on the Statute for Judges, in line with Article 6 of the European Convention on Human Rights (ECHR)[3] and the relevant case-law of the European Court of Human Rights, as well as Article 47(2) of the EU Charter of Fundamental Rights[4]. Opinions of the Venice Commission 614/2011 on three legal questions arising in the process of drafting the new constitution, 621/2011 on the new constitution of Hungary and 663/2012 on the above-mentioned cardinal laws, as well as the position of the government of Hungary on the mentioned opinion 621/2011[5] and announced modifications were also taken into consideration.

II. Constitutional provisions on judiciary

At Constitutional level the independence of the judiciary mainly derives from the principle of separation of powers set out in Article C.1: "*The functioning of the Hungarian State shall be based on the principle of separation of powers."* The independence of the individual judge is enshrined in Article 26(1): *"Judges shall be independent and only subordinated to laws, and may not be instructed in relation to their judicial activities."* Article 25(5) provides for *organs of judicial self-government to participate in the administration of the courts"*. Major factors supporting the independence of judges, such as irremovability, guaranteed term of office, the structure and composition of the governing bodies are not regulated in the Constitution and are – together with detailed rules on the organization and administration of the judiciary – set

[1] For a general overview of the legal problems raised with the new Hungarian Constitution and the problems raised with the procedure of its adoption (as regards transparency and inclusiveness) see Venice Commission, opinion 614/2011, paragraphs 14-19, and opinion 621/2011, paragraphs 10-13, as well as Parliament's resolution of 5 July on the revised Hungarian Constitution (P7_TA-PROV (2011)0315).

[2] The present working document deals with the judiciary meaning courts and judges. As regards shortcomings of the prosecution service legislation see Venice Commission, opinion 668/2012, on Act CLXIII of 2011 on the prosecution service and Act CLXIV of 2011 on the status of the Prosecutor General, prosecutors and other prosecution employees and the prosecution career**.**

[3] The ECtHR stated that *"in order to establish whether a tribunal can be considered as 'independent', regard must be had, inter alia, to the manner of appointment of its members and their term of office, the existence of guarantees against outside pressures and the question whether the body presents an appearance of independence"*, and as regards impartiality that *"there are two aspects to this requirement. First, the tribunal must be subjectively free of personal prejudice or bias. Secondly, it must also be impartial from an objective viewpoint, that is, it must offer sufficient guarantees to exclude any legitimate doubt in this respect"*, whereby "*the concepts of independence and objective impartiality are closely linked"*. See, for example, Findlay v. UK, 25 February 1997, *Reports* 1997-I, p. 281, § 73.

[4] Article 47(2) of the Charter: *"Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented"*.

[5] Position of the government of Hungary on the opinion on the new constitution of Hungary from 6 July 2011.

out in cardinal laws. It follows that the Constitution merely establishes a very general framework for the operation of the judiciary, using broad and vague language leaving the majority of substantial questions to cardinal laws. As regards the constitutional framework, the Venice Commission raised specific questions on the constitutional provisions dealing with interpretation of laws[1], the limitation of powers of the Constitutional Court on taxation and budgetary matters[2] and life imprisonment without parole[3], and explicitly warned that in principle some of the questions should be addressed in the Constitution and not in a cardinal law.[4]

III. Cardinal laws on judiciary

The issue of referring to cardinal laws instead of regulating certain subjects in the Constitution (50 references in the new constitution covering 26 subjects) has been raised by the Venice Commission.[5] At the same time it warned that any deficiencies or unclear wording in the Constitution as regards the judiciary demands an extremely careful drafting in a cardinal law. Nevertheless, the two adopted cardinal laws[6], the AOAC and the ALSRJ, raised several concerns about independence of the judiciary as a whole and the guarantees for the individual judge, especially as regards the role of the President of the National Judicial Office (NJO), the appointment procedure and probationary periods, transfer of judges and cases, and disciplinary proceedings.[7]

Judicial self-regulation and the President of the NJO

The new law (AOAC) establishes the National Judicial Office (NJO) and concentrates in the

[1] Article R (3): *"The provisions of the Fundamental Law shall be interpreted in accordance with their purposes, the National Avowal and the achievements of our historical constitution."*
Article 28: *"In applying laws, courts shall primarily interpret the text of any law in accordance with the goals and the Fundamental Law. The interpretation of the Fundamental Law and other laws shall be based on the assumption that they serve a moral and economical purpose corresponding to common sense and the public benefit."* See in that regard – Venice Commission, opinion 621/2011, paragraphs 28-30, 110 and 149, as well as an answer by the government stating on one hand *"The reference to the historical constitution as a source for interpreting new Constitution has a merely symbolic character"*, but at the same time, as it seems, giving to it not only symbolic character when adding *"it is going to be the duty of the Constitutional Court to find the exact content of the achievements of the historical constitution"*.

[2] Venice Commission, opinion 621/2011, paragraphs 120-127 and 146.

[3] Article IV of the Constitution. See Venice Commission, opinion 621/2011, para. 69-70.

[4] Venice Commission, opinion 621/2011, para. 147: *"In addition, a rather general constitutional framework is provided for key sectors, such as the judiciary... Guarantees for the main principles pertaining to such important matters are usually enshrined in the Constitution, especially when major reforms are planned, as in the case for the Hungarian judiciary."*
See also Venice Commission, opinion 614/2011, paragraphs 51-53.

[5] Venice Commission, opinion, 621/2011, paragraphs 22-27.

[6] They are considered as cardinal laws as regards large parts of both laws (Section 175 AOAC and Section 237 ALSRJ). The Venice Commission raised the issue of "over-cardinalisation" of several aspects of both laws – opinion 621/2011, paragraphs 18-20.

[7] The Venice Commission stated in its opinion 663/2012 that (para. 9) *"the adoption of a large amount of legislation in a very short period of time could explain why some issues in the cardinal laws examined in the present opinion do not meet European standards"*.

hand of the President of the NJO as an individual person the central duties of judicial administration. The list of the President's competences is set out in Section 76 AOAC and in different sections of the ALSRJ. As more specifically indicated below, these powers are very comprehensive, with some falling outside the usual competences of the head of judicial administration in the Member States and with others described in very broad terms without clear criteria governing their application.[1] Furthermore, the long mandate (9 years with the possibility of extension by a two-thirds in Parliament – Section 66 AOAC) combined with the mentioned wide competences of the President of the NJO requires a high level of accountability. In this respect, the President is required to report his or her activities to the National Judicial Council (NJC) every six months and annually to the Parliament. However, reporting – though important for transparency – cannot be considered sufficient according to established systems in the Member States. In addition the NJC as a body of representatives of the judiciary itself, which is the institution for the supervision of the President of the NJO, has not been entrusted with effective powers: it is composed of elected judges, who are subject to the administrative measures of the President of the NJO; the NJO ensures the operational conditions for the NJC and the President of the NJO attends the *in camera* meetings of the NJC. At the same time the Venice Commission does not consider the President of the NJO as an organ of judicial self-government.[2]

Furthermore, it is not clear from the wording of the cardinal laws whether the opinions and recommendations of the NJC are binding on the President of the NJO, and the role of the NJC was perceived by the Venice Commission as weak.[3] Furthermore, the procedural obstacles involved in removing the President of the NJO raise additional concerns. The President of the NJO can only be removed on vaguely defined grounds of "unworthiness of his/her position" by either the President of the Republic or the NJC, supported by a two-thirds majority in Parliament. All these elements led the Venice Commission to conclude (para. 26) that in *"none of the member states of the Council of Europe have such extensive powers been vested in a single person, lacking sufficient democratic accountability"* and that (para. 36) the President of the NJO is *"not only a strong court administrator"* but *"also intervenes very closely in judicial decision making through the right of transferring cases to another court, his or her influence on individual judges and on the internal structure of the judiciary"*. It

[1] Its tasks include at least 65 prerogatives, including far reaching ones as regard the independence of judges, such as initiating legislation concerning courts, designating another court for providing judgment in reasonable time, ordering the adjudication of cases as a matter of urgency concerning a broad spectrum of society or cases of outstanding importance with a view to public interest, putting forward a proposal to the President of the Republic concerning the appointment and relief of judges, adopting decisions on the transfer and posting of judges to another service and their long-term secondments, suggesting disciplinary proceedings, initiating the awarding of titles, assigning a judicial position to another court, changing the ranking of candidates, appointing court presidents. See also in detail Venice Commission, opinion 663/2012, paragraphs 33-36.

[2] Venice Commission, opinion 663/2012, paragraph 51: *"...the mere fact, that only judges are eligible as President of the NJO, does not make the latter an organ of judicial self-government... Since the President of the NJO is elected by Parliament, i. e. an external actor from the viewpoint of the judiciary, it cannot be regarded as an organ of judicial self-government"*.

[3] Therefore, the Venice Commission, ibid, concluded (para. 50) that the NJC *"has scarcely any significant powers and its role in the administration of the judiciary can be regarded as negligible"*.

called on Hungary to increase the accountability of the President of the NJO.[1]

Selection and appointment of judges

The procedure for the appointment of judges is governed by ALSRJ (Sections 3 - 30). The President of the Republic appoints one of the candidates proposed by the President of the NJO. A panel of judges hears the candidates and ranks them on the basis of objective criteria (professional aptitude test and other criteria related to the academic and professional experience). Both the ranking and the applications are sent to the President of the NJO for assessment. Whilst the appointment by a single individual is compatible with the European standards, the ALSRJ grants the President of the NJO a significant discretionary power. When presented with the ranking of candidates drawn up by the panel of judges, the President of the NJO can decide by discretion to deviate from it and propose the second or third candidate on the list to fill the post, whereby no judicial review is foreseen (Section 18(3)).[2] Therefore, the Venice Commission concluded that the new system resulted (para. 61) *"in a reduction of guarantees for an objective selection of candidates"*.

Term of judicial appointment and irremovability

As stated by Recommendation (2010)12 *"security of tenure and irremovability are key elements of the independence of judges"*. According to ALSRJ, judges are appointed for a probationary period of three years for the first time (Section 23(1)). A judge appointed for a fixed term may request his or her appointment for an indefinite term. In this case he or she is subject to an evaluation of his or her professional performance (Section 24). The possibility of repetitive probationary periods is also provided for (Section 25(4)). The law does not establish a maximum limit of cumulative probationary periods nor specific safeguards as regards the decision on permanent appointment. The Venice Commission pointed out that probationary periods are problematic in general with regard to judicial independence since judges *"might feel under pressure to decide cases in a particular way"*, although they are being used in some states. Therefore, any such system has to provide for objective criteria with procedural safeguards and an explicit limitation of cumulative probationary periods.[3]

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[1] The Hungarian authorities signalled in its document of 14 March 2011 as regards the opinion of the Venice Commission the following legislative solutions: - transfer of several powers from the NJO to the NJC, such as the possibility to provide for the adjudication of cases as a matter of urgency, a more strict reporting obligation with the possibility of written questions and answers, only a possibility of proposing new legislation not a right, deviations from candidates ranking upon conditions fixed by the NJC and consent of the NJC, consent of the NJC in certain cases when appointing a court leader.

[2] See also Venice Commission, opinion 663/2012, paragraphs 54-61, highlighting that the system does not comply with paragraph 47 of Recommendation (2010)12 demanding for *"an independent and competent authority drawn in substantial part from the judiciary"* which "*should be authorised to make recommendations or express opinions which the relevant appointing authority follows in practice"*.

[3] Venice Commission, opinion 663/2012, paragraphs 66-68. The Hungarian authorities signalled in its document of 14 March 2011 the following legislative solutions: a limitation of the probationary period to two terms (2 times 3 years).
As regards probationary periods see also the joint opinion of the Venice Commission and the Directorate of Co-operation within the Directorate General of Human Rights and Legal Affairs of the Council of Europe 550/2009 of 16 March 2010 on a five year probationary period in Ukraine (para. 39): *"If probationary periods are considered indispensable, they should not exceed two years. A period of five years cannot be regarded as acceptable. Such a period would mean that an important number of judges would at any given period of time be*

As far as irremovability is concerned, Recommendation (2010)12, paragraph 52, states: *"A judge should not receive a new appointment or be moved to another judicial office without consenting to it, except in cases of disciplinary sanctions or reform of the organisation of the judicial system"*. The chair of the tribunal can re-assign judges without their consent on a temporary basis out of service interest every three years for one year, and the President of the NJO is entitled to give orders for temporary secondment (Section 33). If the judge would not agree with such a transfer he would be automatically exempted from office and his service would be terminated (Section 94). According to the Venice Commission such a system is *"overly harsh"* and there must be *"clear and proportional rules for such actions as well as a right of appeal"*.[1]

Allocation of cases

In order to safeguard judicial independence *"The allocation of cases within a court should follow objective pre-established criteria"* (Recommendation (2010)12) established in advance by law. Although the AOAC lays down specific criteria for the allocation of cases (Section 9), the exceptions thereto are based, according to the Venice Commission, on considerably vague criteria and thus raise concerns about their impact on judicial independence. The President of the NJO may designate another court to proceed instead of the presiding court if so necessitated by the objective of adjudicating cases *"within a reasonable period of time* "(Section 76) without the existence of clear objective criteria.[2]

Retirement age

The ALSRJ and the transitory provisions to the Fundamental Law provide that the upper-age limit will be merged with the retirement age (62 years), with the effect that judges reaching the retirement age will have to retire. The sudden change in the upper-age limit means that nearly ten percent of Hungarian judges will retire within a short period of time.[3] The Venice Commission raised in that regard the problem of retroactive effect and the perception of independence due to large number of judges to be retired.[4] At the same time the EU rules on equal treatment in employment, laid down in Directive 2000/78/EC, prohibit discrimination at the workplace on grounds of age. Under the case-law of the Court of Justice of the EU, an objective and proportionate justification is needed if a government decides to reduce the retirement age for one group of people and not for others. Following the European Commission's letter of formal notice of 17 January, Hungary proposed a clause that would

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under uncertainty about their future".

[1] Venice Commission, opinion 663/2012, para. 79. The Hungarian authorities signalled in its document of 14 March 2011 the following legislative solutions: a transfer is only possible if the even distribution of the case-load or the professional development of the judge makes it necessary.

[2] The Venice Commission referred to 9 cases where a transfer already took place. See Venice Commission, opinion 663/2012, paragraphs 86-94. The Hungarian authorities signalled in its document of 14 March 2011 the following legislative solution: the NJC will issue a recommendation that has to be followed by the President of the NJO.

[3] Venice Commission, opinion 663/2012, paragraphs 102-110.

[4] The Hungarian authorities signalled in its document of 14 March 2011 the following legislative solutions: modification of the transitional provisions in consultation with the European Commission.

allow to extend in individual cases the retirement age of a judge to beyond 62 if the judge passes a review by the NJC of his `professional and medical aptitude'. According to the Commission, this proposal does not comply with EU law because such extensions may be arbitrary, apply only in individual cases and they do not remove the Commission's main concern: the difference in treatment of judges with other professions. Therefore, the Commission concluded that Hungary failed to provide an objective justification for reducing the mandatory retirement age for judges, prosecutors and public notaries and on 7 March 2012 decided to send a reasoned opinion – the second stage under EU infringement procedures, and referred on 25 April 2012 the matter to the Court of Justice of the European Union.

Constitutional Court

The Venice Commission[1] also evaluated Act CLI of 2011 on the Constitutional Court of Hungary pointing out, inter alia, the following elements: - the independence of the Constitutional Court and the status of its judges should be guaranteed in the Fundamental Law, and not only in the Act on the Constitutional Court; - additional procedural safeguards should be put in place as regards the exclusion of a member from the Court; - the two individual complaint procedures should be clarified; - an exception to the requirement for the exhaustion of legal remedies should be provided for all cases where adhering to this rule could cause irreparable damage to the individual; - missing provisions on legal aid; - "cardinal elements" in the ACC should be restricted to fundamental principles; - the limitation of the Constitutional Court's control powers in budgetary matters should be abolished.

IV. Perception of independence and impartiality, the EU Charter of Fundamental Rights and the principle of mutual recognition

Any doubts in the independence and impartiality of judges based on systematical flaws in the Constitution and national laws could have a significant impact on the on-going cooperation in the common area on freedom, security and justice based on the principle of mutual recognition as enshrined in Articles 81 TFEU (civil matters) and 82 TFEU (criminal matters). In that regard it is necessary to point out the EU prerogatives in the field of criminal law, where several far reaching instruments are already in place based on mutual recognition, meaning more or less automatic recognition of judicial decisions from other Member States, reaching from transfer of suspects and convicted persons (European Arrest Warrant), over probationary measures to evidence gathering (European Evidence Warrant and the proposed European Investigation Order). Therefore, any problems with the appearance of the independence and impartiality of judges would endanger the whole existing structure based on mutual trust. At the same time any cross-border issue when implementing EU law could trigger directly Article 47(2) of the Charter in connection with Article 52(3) of the Charter on the harmonious understanding of rights guaranteed also by the ECHR.

V. Amendments to the cardinal laws on the judiciary

On 2nd July 2012 the Hungarian parliament adopted legislative proposal No. T/6393 on the amendment of Act CLXI of 2011 on the Organisation and Administration of Courts and Act

[1] Venice Commission, opinion 665/2012.

CLXII of 2011 on the Legal Status and Remuneration of Judges (hereinafter referred to as the new act). The Venice Commission is currently assessing the amending provisions. Its opinion thereon is expected to be issued in October 2012. A summary of the new act is reported below.

Redistribution of powers between the President of the NJO and the NJC

With a view to limiting the powers of the President of the NJO and establishing criteria for their exercise the new act transfers a number of competences to the NJC in the areas of both human resources and courts' administration.

As regards the procedure of judicial appointment, the NJC has been granted the responsibility for determining the principles to be applied by the President of the NJO when awarding a vacant position to the applicant in the second or third position in the rankings. The NJC has also been vested with the right of consent in the adjudication of applications of judges in case the President of the NJO changes the ranking of judicial candidates. The consent of the NJC is also requested in the case of appointment of court leaders when the candidate has not obtained the support of the majority of the reviewing judicial board. The NJC shall publish its opinion annually on the practice of the President of the NJO and the President of the Curia with respect to evaluating the applications of judges and court leaders[1].

Further new competences of the NJC in the area of human resources include inter alia: - the competence to express a preliminary opinion on persons nominated as President of the NJO and President of the Curia on the basis of a personal interview; - the possibility, in the case of resignations of judges, to approve a notice period shorter than 3 months and to relive the judge from his/her work related duties for the notice period in full or in part[2].

In the area of central administration of courts the NCJ has been entrusted with the following new responsibilities : - the NJC approves the rules of procedure of the service court and publish them on the central website[3]; - it may, in especially justified cases, order the adjudication of cases concerning a broad spectrum of society or cases of outstanding importance with a view to public interest as a matter urgency[4]; - the NJC establishes the principles to be applied by the President of the NJO when appointing another court to proceed instead of the presiding court if so necessitated by the objective of adjudicating cases within a reasonable period of time[5].

Amendments aiming at increasing the accountability of the President of the NJO

The new act does not shorten the term of office of the President of the NJO (9 years). However, it abrogates the possibility of extending the term in office of the President of the NJO after its expiration if Parliament fails to elect the new president[6]. In case of impediment or if the position is vacant the President of the NJO shall be substituted by the general Vice

[1] Section 7(4) of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[2] The complete list of NJC powers in the area of human resources is laid down in Section 7(4) of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[3] Section 7(2) of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[4] Section 7(3) of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[5] Ibid.

[6] Section 14 of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.

President of the NJO. In the absence of those authorised to substitute, the duties of the President of the NJO shall be performed by the President of the NJC[1].

With a view to increasing the supervision of the activities performed by the President of the NJO the new act enhances his/her reporting obligations as well as the obligation of the statement of reasons. The obligation of the President of the NJO to report annually to Parliament has been supplemented by the obligation to report– once in between annual reports – also to the Parliamentary Committee of the Judiciary[2]. Furthermore, all decisions taken by the President of the NJO in the exercise of his/her duties "shall - where applicable - state the reasons of his/her decisions"[3].

Amendments aiming at increasing the independence of the NCJ

While not changing the composition of the NCJ (it is composed of judges only) the new act ensures the participation in its meetings with consultative rights - in addition to the President of the NJO and the Minister responsible for Justice - for the Prosecutor General, the President of the Hungarian Bar Association, the President of the Hungarian Chamber of Notaries Public as well as for civil society and other interest groups invited by the President of the NCJ. However, the President of the NJO and other persons with consultative rights may no longer attend in camera meetings unless authorised by the NCJ[4].

The new act also provides for the right of the NCJ to establish, with the agreement of the President of the NJO, its own separate budget within the budget of the NJO[5]. However, the NJO continues to provide the logistic and technical conditions for the NJC.

Amendments relating to appointments for fixed periods and transfer of judges

The new act abrogates the possibility of repetitive probationary periods[6] laid down in Section 25(4) of the ALSRJ, according to which a judge shall be given a repeated appointment for a fixed term of 3 years if he is awarded an evaluation "eligible, subsequent assessment required". In cases where the term of the judge's actual judicial work did not reach 18 months (minimum period necessary for the assessment), the new act provides for the extension of the appointment by three years instead of a renewed appointment for a fixed term (as was the case before the amending provisions were adopted). The appointment of the judge can be repeatedly extended until the total actual judicial work reaches the 18 months minimally required for assessment[7].

As regards temporary secondment, the new act still provides for the possibility to assign a judge without his/her consent to a judicial position at another service post on a temporary basis once every three years, for a maximum duration of one year. In this regard, the new act specifies

[1] Section 6 of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[2] Section 4(4) of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[3] Section 5(1) of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[4] Section 10 of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[5] Section 8 of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[6] Section 29(2) of the Amendments to Act CLXII of 2011 on the Legal Status and Remuneration of Judges.

[7] Section 18 of the Amendments to Act CLXII of 2011 on the Legal Status and Remuneration of Judges.

that the temporary secondment can be ordered with a view to ensuring an even distribution of caseload between courts[1] (the provision previously in force simply referred to "out of service interests").

When a court ceases to operate or when its competence decreases in a manner that the judicial work of a judge there is no longer possible, the new act establishes the obligation on the President of the NJO to offer the judge concerned posts at courts of the same level of the judiciary, or at the next inferior or superior level. If there is no post that may be offered, or if the judge does not choose any of the possible posts, the President of the NJO shall transfer the judge to a court at the same level of the judiciary or at the next inferior level, having due regard to the interest of the judge in question[2]. As reported below, judges may, in the event of a transfer, initiate a legal dispute relating to their service relationship before the administrative and labour court.

New possibilities of judicial review in relation to the decisions adopted by the President of the NJO

The new act provides judges with the general right to turn to court with regard to decisions taken by the President of the NJO when performing his/her tasks concerning staff management. In addition, the new act creates the possibility for judges to file constitutional complaints with regard to rules issued by the President of the NJO[3].

Furthermore, the new act grants the right of judicial review against the results of the applications for judicial appointment. An applicant may submit an objection to the appointment's decision if the legal requirements for the appointment of the successful candidate are not met or if the successful candidate does not fulfil the conditions provided for in the notice of the application. The objection shall be introduced before the president of the court to which the appointment was sought, who shall forward it through the President of the NJO to the administrative and labour court with jurisdiction for Budapest that has exclusive jurisdiction to hear the case[4].

As regards the decision of the President of the NJO to appoint another court in the interest of the assessment of cases within a reasonable time, the new act provides the parties affected thereof with the right of judicial review. Appeals submitted by the parties against the decision to appoint another court shall be adjudicated by the Curia. The Curia can only revise the discretionary decision of the President of the NJO to the extent that the President of the NJO has breached legal provisions applicable to the making of the decision[5].

With regard to the decision of the President of the NJO to transfer a judge to another court when a court ceases to operate or when its competence decreases in a manner that the judicial work of a judge there is no longer possible, the new act grants judges the right of judicial review. Judges may, in the event of a transfer, initiate a legal dispute relating to their service

[1] Section 19 of the Amendments to Act CLXII of 2011 on the Legal Status and Remuneration of Judges.
[2] Section 20 of the Amendments to Act CLXII of 2011 on the Legal Status and Remuneration of Judges.
[3] Section 5(4) of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.
[4] Section 17 of the Amendments to Act CLXII of 2011 on the Legal Status and Remuneration of Judges.
[5] Section 3(2) of the Amendments to Act CLXI of 2011 on the Organisation and Administration of Courts.

relationship before the administrative and labour court[1].

[1] Section 20 of the Amendments to Act CLXII of 2011 on the Legal Status and Remuneration of Judges.