

2018.OBH.XXIX.D.1.

## INFORMATION

on the practice of the President of the National Office for the Judiciary  
in the course of the assessment of applications for judicial appointments in 2017

(27 March 2018)

### 1. Regulatory Framework

#### 1.1 Legal regulations

##### 1.1.1 Act CLXI of 2011 on the organisation and administration of courts of Hungary (OACH)

- in the area of human resources, the National Judicial Council (NJC) publishes its opinion annually on the practice the President of the National Office for the Judiciary (NOJ) follows with respect to assessing applications for judicial positions (Section 103 (3) (f))

##### 1.1.2 Act CLXII of 2011 on the legal status and remuneration of judges (LSRJ)

- applications for judicial positions are assessed by the President of the NOJ (Section 17)
- if the President of the NOJ agrees that the applicant ranked first should be appointed, he or she shall rule on the application by forwarding it to the President of the Republic for appointment or, in the case of a judge, by transferring the judge (Section 18 (1))
- the President of the NOJ may decide to deviate from the ranking provided by the judicial council and propose the second or third candidate on the list to fill the post, or may rule on the application by transferring the second or third candidate on the list (Section 18 (3))
- when assessing the applications, deviation from the shortlist is only allowed with the prior written approval of the National Judicial Council (Section 18 (4)-(5))
- application procedures are unsuccessful if
  1. no application is received, or the chair of the court has rejected all applications in accordance with the provisions of Section 13 of LSRJ, or
  2. the President of the NOJ entitled to assess the applications or, in the event of candidacy for the Curia, the President of the Curia does not intend to fill the post with any of the applicants because
    - ❖ appointing the applicant would give rise to conflict of interest as envisaged in Section 41 of the LSRJ
    - ❖ the participants involved in the assessment process breached procedural requirements during the assessment procedure

- ❖ the judicial council failed to comply with its obligation to give reasons as laid down in Section 15 (2) and (2a) of the LSRJ
- ❖ changes in work organisation, workload or budget occurring after publishing the call for applications make it administratively unreasonable to fill in the post
- ❖ a circumstance arose after publishing the call for applications as a result of which, the vacancy is to be filled without a call for applications as laid down by law (Section 8 of the LSRJ),

### 1.1.3 Decree No. 7/2011 (III. 4.)

- Decree No. 7/2011 (III. 4.) by the Minister of Public Administration and Justice on the detailed rules of assessing the applications for judges and on the scores awarded during the ranking of applicants (“Decree on Scoring”)

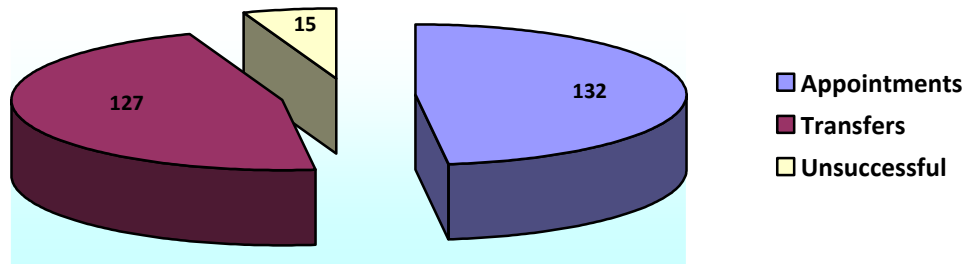
## 1.2 Authoritative decisions of the National Judicial Council

- Recommendation No 1/2012 (X. 15.) of the National Judicial Council, amended by decisions No 9/2017 (II. 13.) and 50/2015 (VI. 9.) of the National Judicial Council, on the interpretation and practical application of Decree No 7/2011 (III. 4.) of the Minister of Public Administration and Justice on the detailed rules of assessing the applications for judges and on the scores that may be awarded when establishing the ranking list of candidates
- 1.2.2 Decision No 3/2013 (I. 21.) of the National Judicial Council on the principles to be taken into account (to be examined and applied) by the President of the NOJ and the President of the Curia upon a departure from the ranking of applications during the assessment of applications for judicial positions
  - the general rule is to appoint the candidate ranked number one (the ranking has priority)
  - in exceptional cases, departure is allowed from the ranking if
    - ❖ it complies with the principles set out by the National Judicial Council, and
    - ❖ considering all other circumstances and the key aspects for the post concerned, the appointment of the candidate ranked number two or three is justified in general.

## 2. Number and outcome of the assessed applications

### 2.1 Applications assessed

#### Outcome of the assessment of applications for judicial positions



In 2017, a total of 274 applications invited for judicial positions were assessed, in the course of which the President of the NOJ decided

- to propose the appointment of the applicant as a judge for a definite period in 132 cases
- to transfer a judge in 127 cases, and
- to declare the call for applications unsuccessful in 15 cases.

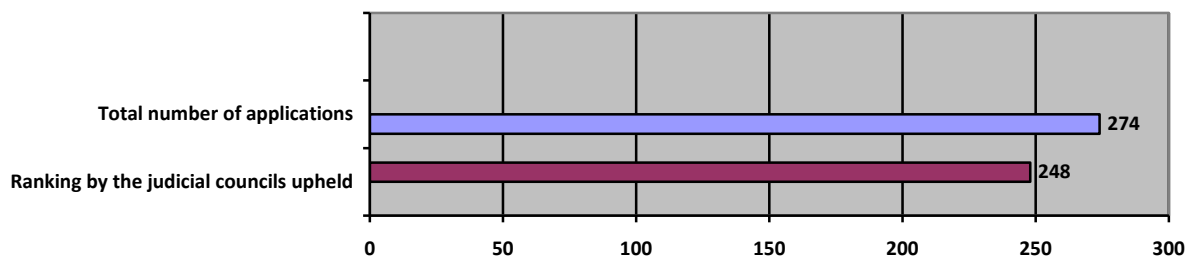
A total of 1919 applications were received in response to the calls.

Of the 132 newly appointed judges, 131 had worked as court secretaries, and 1 person worked as a senior rapporteur at a county police headquarters before their application.

Of the 127 judges transferred, 97 were promoted to a higher level court.

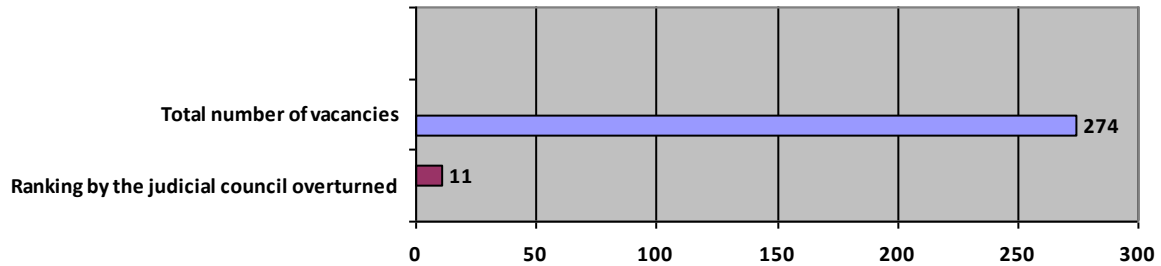
### 2.2 Successful applications for judicial positions

#### 2.2.1 Applications for judicial positions assessed identically with the ranking established by judicial councils



Of the 274 applications for judicial position assessed, the President of the NOJ decided to uphold the ranking established by the judicial council in 248 (90.5%) of the cases.

### 2.2.2 Vacancies for judges assessed in divergence from the ranking established by judicial councils



The President of the NOJ submitted 11 applications (4%) to the National Judicial Council seeking a preliminary opinion prior to assessing applications submitted for a judicial position. The President of the NOJ proposed to depart from the ranking in an agreement with the proposal of the chair of the court in 10 cases and in disagreement in 1 case, and in each case the National Judicial Council agreed with the President's proposal.

### 2.3 Calls for applications for judicial positions declared unsuccessful

The President of the NOJ declared unsuccessful 15 calls for applications to fill judicial vacancies (5.5 %) due to the following reasons:

#### 2.3.1 No application submitted in 4 cases (Section 20 (1) (a) of the LSRJ)

	Reason	Position specified in the call	Decision of the President of the NOJ
1-4	No application submitted	Budapest 2nd and 3rd District Court (case number: 2017.OBH.XXIX.B.176.) Central District Court of Pest (PKKB) (case number: 2017.OBH.XXIX.B.208.) Central District Court of Pest (PKKB) (case number: 2017.OBH.XXIX.B.214.) Central District Court of Pest (PKKB) (case number: 2017.OBH.XXIX.B.211.)	A new call was published.

#### 2.3.2 Breach of procedural requirements in 6 cases (Section 20 (1) (bb) of the LSRJ)

	Reason	Position specified in the call	Decision of the President of the NOJ (OBHE)
1-2	Invalid certificate of no criminal record	Sopron District Court (case number: 2017.OBH.XXIX.B.76.)	A new call was published.



		Fonyód District Court (case number: 2017.OBH.XXIX.B.71.)	
3-6	Recognising the specialisation in juvenile cases as a relevant qualification to fill a position in the civil law division led to a scoring error, which modified the ranking of the applications.	Esztergom District Court (case number: 2017.OBH.XXIX.B. 99.)	A new call was published.
		Vác District Court (case number: 2017.OBH.XXIX.B.116.)	
		Gödöllő District Court (case number: 2017.OBH.XXIX.B.132.)	
		Budaörs District Court (case number: 2017.OBH.XXIX.B.118.)	

### 2.3.3 Changes in work organisation or workload in 5 cases (Section 20 (1) (bd) of the LSRJ)

	Reason	Position specified in the call	Decision of the President of the NOJ
1	The Chair of the Budapest-Capital Regional Court proposed - in agreement with the position of the Chair of the Central District Court of Pest - to declare the call as unsuccessful.	Central District Court of Pest (case number: 2017.OBH.XXIX.B.69.)	No call has been published.
2	The President of the Budapest-Capital Regional Court of Appeal proposed to declare the call as unsuccessful.	Budapest-Capital Regional Court of Appeal (case number: 2017.OBH.XXIX.B.13.)	No call has been published.

3	The position of a judge appointed to the NOJ had been terminated. The judge was appointed to a position of a judge of the same level as earlier.	Budapest Environs Regional Court (case number: 2017.OBH.XXIX.B.104.)	No call has been published.
4	The professional college and the judicial council did not support any of the applicants; the head of the college moved to have the call declared unsuccessful.	Budapest-Capital Regional Court (case number: 2017.OBH.XXIX.B.94.)	The position was terminated.

<b>5</b>	The President of the Budapest-Capital Regional Court of Appeal primarily proposed to transfer the applicant ranked as number two or, as a second alternative, to declare the call as unsuccessful. The professional college and the judicial council did not support the applicant ranked number two.	Budapest-Capital Regional Court of Appeal (case number: 2017.OBH.XXIX.B.81.)	No call has been published.
----------	---	--	-----------------------------

In the course of the central audit and analysis of the application process, feedback is given about the outcome of the assessments, any irregularity revealed and also about divergent practices, if any, which serves the purpose of enforcing the basic principles of the system of calls, aiming at ensuring uniformity and consistency. The chair of the court concerned is provided information on the outcome of the assessment in each case, along with instructions to inform the judicial council. Oral information is provided briefly and immediately to the chair of the court, who receives detailed information in writing, with legislative provisions and the President's proposal taken into account. Pursuant to the Act, the chair of the court is responsible for informing the applicants (Section 21 (2) of the LSRJ).

The justification of the decision by the President of the NOJ to declare a call unsuccessful shall respect the candidate's personality rights.

### 3. Comparison with the 2016 assessment practice

	Year 2016	Year 2017
<b>Applications assessed</b>	122	274
<b>Applications received</b>	559	1919
<b>Calls assessed identically with the ranking established by the judicial council</b>	88	248
<b>Calls assessed in divergence from the ranking established by the judicial council</b>	6	11
- the National Judicial Council agreed with the proposal of the President of the NOJ	6	11
- the National Judicial Council disagreed with the proposal of the President of the NOJ	0	0
<b>Calls declared unsuccessful</b>	28 (14)*	15

Section 20 (1) of the LSRJ - no valid application submitted	1	4
Section 20 (1) (bb) of the LSRJ - breach of procedural requirements	7	6

Section 20 (1) (bc) of the LSRJ - obligation to give reasons	3	0
Section 20 (1) (bd) of the LSRJ - reason relating to work organisation or workload	17 (3)*	5

\* 14 calls were declared unsuccessful due to transfers required upon establishing the Szigetszentmiklós District Court.

The above data show that the number of assessed applications for judicial positions doubled in 2017, and the number of applications submitted for the positions published in the calls was up 3.5 times year on year. The increase was mainly due to 45 vacancies for judges published at administrative and labour courts of regional competence during the first phase of the expanding the system of administrative courts. It should be mentioned that the ratio of applications assessed in line with the ranking established by the judicial council compared to the total number of assessed applications increased from 72% in the previous year to 90.5% (122 calls in 2016; 274 calls in 2017), and the ratio of calls declared as unsuccessful decreased from 11% to 5.5%.

#### 4. The scores awarded

The candidates received the following scores in case of appointment or transfer on the various levels of courts:

Court level	APPOINTMENTS				TRANSFERS			
	Number of calls	Minimum score	Maximum score	Mean	Number of calls	Minimum score	Maximum score	Mean
<b>Regional Courts of Appeal</b>	-	-	-	-	19	45	134	97
<b>Regional Courts</b>	6	68	101	89	82	59	119	89
<b>Administrative and Labour Courts</b>	28	54	94	67	5	65	113	88
<b>District Courts</b>	98	43	87	66	21	58	81	68

The table above shows that applicants for higher level judicial positions are appointed as judges or transferred with a higher score.

## 5. Changes in the system of calls for applications

2017 brought an amendment of the decree on scoring, which sets the fundamental legislative framework for the process of assessing the procedure of applications for judicial positions. The modified provisions are applicable to calls for applications for judicial positions published after 1 November 2017. Serious professional work started in the NOJ to ensure that all participants involved in applications procedures are well prepared for the changes.

On 27 November 2017 a professional forum was organized with the participation of the chairs of judicial councils as well as all court employees involved in the preparation of the calls for applications for judicial positions.

The following professional guidance documents had been drafted:

- general information on calls for applications for judicial positions [Court Bulletin])
- easily understandable information on calls for applications - FAQ (birosag.hu)
- application inserts (general; for the administrative division)
- user guide to completing application inserts (general; for the administrative division)
- scoring tables (general; for the administrative division)
- submission forms (general; for the administrative division)
- statistical factsheets (in the administrative division)
- statement of judicial practice
- guidance to the assessment criteria set out in the Decree on Scoring to provide practical guidance and instructions about certification
- application guidelines on topics including but not limited to the submission of additional documents required and the cases of refusal, and a summary providing assistance to the colleges for stating their opinion

The “Applications” page of the website [birosag.hu](http://birosag.hu) has been renewed and holds uploads of application inserts together with user guides, an information leaflet and flow charts for the appointment of judges.

All this intends to facilitate and standardise the process of applying for a judicial position for all of the participants involved in the procedure.