

**BRIEFING PAPER**  
**ON THE ELECTION OF THE NEW NATIONAL JUDICIAL COUNCIL OF HUNGARY**  
**19 January 2024**

**Hungarian judges elected new representatives to oversee judicial administration**

On 8 January 2024 the 128 judge-delegates elected the 14 new National Judicial Council (NJC) members. Subsequently, 14 new substitute members were also elected on 15 January. The first meeting of the new NJC will take place within 15 days of the election. The first meeting will elect the NJC's President and the Deputy-President for a 3-year term with a possibility of re-election. The term of the newly elected Council ends in January 2030. The election process lasted between September 2023 and 15 January 2024. The NJC members were elected by delegates, that had been elected by judges at their respective courts.

While we have not found evidence that would indicate that the election process of the NJC as a whole was seriously damaged, several factors demonstrate that political and administrative pressure was exerted on the election process of the new NJC.<sup>1</sup>

**Concerns that demonstrate pressure exerted in the election process**

- Two sources independently told Amnesty International that judicial leaders (according to their information, leaders of three regional courts in Eastern Hungary) distributed a **suggested list of candidates for NJC membership** amongst the delegates from their courts. Amnesty International saw the list of names but could not verify its authenticity or the author of the list. One source told Amnesty International that they spoke with three delegates from three different regional courts after the election took place on 8 January 2024 and all of them confirmed that they had received such list from their judicial leader. They added that they had heard about other delegates who received the list. The existence and distribution of this list was reported by the media too.<sup>2</sup> According to our sources, the list was distributed amongst some but not all delegates to encourage them to

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<sup>1</sup> See also: Contribution of Hungarian CSOs to the European Commission's Rule of Law Report, January 2024, [https://www.amnesty.hu/wp-content/uploads/2024/01/HUN\\_CS0\\_contribution\\_EC\\_RoL\\_Report\\_2024-1.pdf](https://www.amnesty.hu/wp-content/uploads/2024/01/HUN_CS0_contribution_EC_RoL_Report_2024-1.pdf), Question I.6.

<sup>2</sup> Zoltán Simon, "Többféle módon is próbáltak nyomást gyakorolni az új OBT-t megválasztó küldöttekre, amit azonban a törvény nem tilt" [There have been various attempts to put pressure on the delegates who elected the new NJC, though which is not prohibited by law], 16 January 2024, [https://nepszava.hu/3221963\\_tobbfele-modon-is-probaltak-nyomast-gyakorolni-az-uj-obt-t-megvalaszto-kuldottekre-amit-azonban-a-torveny-nem-tilt](https://nepszava.hu/3221963_tobbfele-modon-is-probaltak-nyomast-gyakorolni-az-uj-obt-t-megvalaszto-kuldottekre-amit-azonban-a-torveny-nem-tilt) (in Hungarian).

elect those names on the list to be NJC members. Finally, 12 of the 14 persons on the list were elected in the first round to become NJC members on 8 January 2024.<sup>3</sup>

- Referring to the fact that the Judicial Reform<sup>4</sup> exceptionally allowed for current NJC members to get re-elected<sup>5</sup>, **Gergely Gulyás**, the Minister heading the Prime Minister's Office **hinted** at a news conference in July 2023 **that some NJC members acted in their own interests to be able to run for re-election just this time.**<sup>6</sup> To disprove this claim and to protest against the claim that the Judicial Reform was an *ad hominem* legislation, elected members of the NJC waived their right to be re-elected, arguing that they had not sought for such a right.<sup>7</sup> Consequently, experienced members of the NJC were not standing for re-election in the present election procedure.
- Another reported example was the top-down interference at Hungary's largest regional court in Budapest, the Metropolitan Regional Court, the president of which **instructed judicial leaders<sup>8</sup> in July 2023 to convene open plenary "consultations"** at their judicial departments to choose the delegates.<sup>9</sup> This is problematic because the law prescribes full secrecy of the voting process. Despite concerns publicly raised by current members of the NJC, the "consultations" were held, breaching the rules of the election process.<sup>10</sup>
- According to news reports,<sup>11</sup> the **Kúria President** sent a letter to the Hungarian Association of Judges (MABIE), in which he expressed that he would **"consider it**

<sup>3</sup> On 8 January 2024, the 128 delegates first voted on who can be put on the ballot (only delegates receiving 1/3 of the votes could get on the ballot). Second, the 128 delegates voted on the 14 new NJC members (amongst the 24 candidates on the ballot). In this second vote, one sitting was enough, as all 14 candidates got the necessary 50%+1 votes in the first round [Act CLXI of 2011 on the Organisation and Administration of Courts, Article 100(1)]

On 15 January, the delegates voted on the 14 new substitute members of the NJC. If the membership on an NJC member terminates, in a predetermined order a substitute member will become a new NJC member.

<sup>4</sup> Act X of 2023 on the Amendment of Certain Laws on Justice related to the Hungarian Recovery and Resilience Plan

<sup>5</sup> Act CLXI of 2011 on the Organisation and Administration of Courts, Article 197/F (1)

<sup>6</sup> "It was regrettable that some members of the NJC as judges were happy to negotiate with foreign governments in Brussels and report their own government in order to achieve personalised legislation so that they could be re-elected. So it seems that they have not stopped their activity. And what is particularly ridiculous is that these people used to say that *ad hominem* legislation was unacceptable, and even saw it where it did not exist, and then when the legislation was tailor-made to fit them and their needs, they said that they did not wish to make use of it and they do not want to become candidates again for the elections [for the next term of the NJC]. Watch them all run!" "Gergely Gulyás: The EU draft on migrants is tantamount to dismantling the fence", Magyar Nemzet, 6 July 2023, <https://magyarnemzet.hu/belfold/2023/07/hamarosan-kezdodik-a-kormanyinfo-kovesse-nalunk-eloben-2> (from 33 minute, in Hungarian).

<sup>7</sup> National Judicial Council, The statement of the elected members of the NJC, 6 September 2023, <https://orszagosbiroitanacs.hu/az-obt-valasztott-tagjainak-nyilatkozata/>

<sup>8</sup> See: Gábor Miklósi, "Máris megkezdődött a küzdelem a bíróságokért" [The battle has already started for the courts], 23 August 2023, <https://444.hu/2023/08/23/maris-megkezdodott-a-kuzdelem-a-birosagokert>, (in Hungarian).

<sup>9</sup> In the Hungarian system, NJC members are elected by delegates who have been elected beforehand, by judges at plenary meetings at regional courts and regional courts of appeal and at the Kúria.

<sup>10</sup> See in more detail: Hungarian Helsinki Committee, *Fundamental Deficiencies of the Hungarian Judicial Reform*, 31 October 2023, [https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/Fundamental\\_deficiencies\\_Judicial\\_Reform\\_20231030.pdf](https://helsinki.hu/en/wp-content/uploads/sites/2/2023/10/Fundamental_deficiencies_Judicial_Reform_20231030.pdf), Section IV.2.

<sup>11</sup> György Kerényi, "A Kúria elnöke az Országos Bírői Tanács megválasztásának befolyásolását célzó levelet írt egy bírói egyesületnek" [The Kúria President has written a letter to a judges' association in order to influence the

**fortunate” if the delegates would elect** as member of the NJC one or two **administrative leaders** falling within the power of appointment of the National Office for the Judiciary (NOJ) President.<sup>12</sup> The NJC confirmed the existence of the letter and publicly stated<sup>13</sup> that the letter questions whether the Kúria President respects the delegates’ autonomy in their decision-making and the fairness of the NJC election and also pointed out that the delegates could easily identify the “administrative heads” referred to by the Kúria President.

- According to media reports,<sup>14</sup> one of the 14 elected new NJC members is the president of the Gyula Regional Court.<sup>15</sup> According to media reports, that a source also confirmed to Amnesty International, one member of the MABIE electoral committee (“választmány”) sent a letter to the MABIE Chair claiming to have information from different judges that certain MABIE leaders **encouraged some NJC delegates to vote for a court president** (according to one of our sources and also according to the news, Árpád Bagdi, President of the Gyula Regional Court), which is contrary to the MABIE’s previous standpoint<sup>16</sup>.

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election of the NJC], 20 December 2023, <https://www.szabadeuropa.hu/a/kuria-elnoke-orszag-os-biroi-tanacs-megvalasztas-befolyasolas-level-biroi-egyesulet/32739875.html> (in Hungarian).

<sup>12</sup> The Judicial Reform failed to establish a conflict-of-interest rule whereby judicial leaders appointed by the NOJ President (i.e., court presidents, court vice-presidents, chairs of the departments of judges) and with respect to whom the NOJ President exercises the employer’s rights are excluded from becoming members of the NJC. [Controversially, the legislation explicitly excludes the possibility of being elected as member of the NJC in case of close relatives of the NOJ President, the Kúria President and the presidents and vice-presidents of regional courts of appeal and regional courts [Act CLXI of 2011 on the Organisation and Administration of Courts, Article 90 (2) e)]. The lack of such conflict-of-interest rule is problematic for the future election and operation of the new NJC, as

- (i) non-judicial leader NJC members may not dare to challenge judicial leader NJC members on issues within the NJC decision-making processes;
- (ii) it is questionable whether judicial leaders appointed by the NOJ President are able to exercise independent and impartial supervision over the NOJ President exercising the rights of employer with respect to them;
- (iii) judicial leaders’ formal and informal influence at courts makes it easier for them to be elected as NJC members at the NJC’s Assembly of Delegates.

<sup>13</sup> National Judicial Council, *Az OBT közleménye a Kúria elnökének leveléről az OBT választás kapcsán* [Statement of the NJC on the letter of the Kúria President on the NJC election], 21 December 2023, [https://orszagosbiroitanacs.hu/az-obt-kozlemeny-a-kuria-elnokenek-levelerol-az-obt-valasztas-kapcsan/?utm\\_source=substack&utm\\_medium=email](https://orszagosbiroitanacs.hu/az-obt-kozlemeny-a-kuria-elnokenek-levelerol-az-obt-valasztas-kapcsan/?utm_source=substack&utm_medium=email) (in Hungarian).

<sup>14</sup> György Kerényi, “A bírók megválasztották az Országos Bírői Tanács új tagjait” [Judges elected new members of the National Judicial Council], 9 January 2024, <https://www.szabadeuropa.hu/a/a-bi-rok-megvalasztottak-az-orszag-os-biroi-tanacs-uj-tagjait/32766711.html> (in Hungarian).

<sup>15</sup> In the course of the 9 October 2018 substitute member election to the NJC, this regional court president was nominated, but refused to be put on the ballot, and therefore he also contributed to that this NJC assembly of delegates could not elect new NJC substitute members. See the minutes of this NJC Assembly of Delegates, <https://www.mabie.hu/attachments/article/1055/K%C3%BCId%C3%B6tt%C3%A9rtekezleti%20jegyz%C5%91k%C3%B6nyv.pdf>

He also signed the so-called “farewell letter” signed by court presidents and addressed to and praising the stepping down NOJ President Tünde Handó which was regarded as an illustration of extreme loyalty towards Mrs. Handó. See: [https://birosag.hu/sites/default/files/users/Szakirodalmi%20aj%C3%A1nl%C3%B3%202/k%C3%B6sz%C3%B6net%20EA-nak%20nevekkell\\_level.jpg](https://birosag.hu/sites/default/files/users/Szakirodalmi%20aj%C3%A1nl%C3%B3%202/k%C3%B6sz%C3%B6net%20EA-nak%20nevekkell_level.jpg)

<sup>16</sup> MABIE, “A Magyar Bírői Egyesület véleménye az egyes igazságügyi tárgyú törvényeknek a magyar Helyreállítási és Ellenállóképességi Tervhez kapcsolódó módosításáról szóló törvénytervezetről” [Opinion of the Hungarian Association of Judges on the Draft Law Amending Certain Laws on Judicial Matters in Connection with the

Earlier MABIE expressed an opinion publicly that judicial leaders who are appointed by the NOJ President should not become members of the NJC. We have no information on whether the MABIE Chair had replied to the letter.

- The following judicial leaders were elected as NJC members<sup>17</sup>:
  - Árpád Gyula Bagdi, regional court<sup>18</sup> president
  - János Hegedűs, district court<sup>19</sup> president
  - Gergely Kovács, district court vice-president
  - István András Nagy, group<sup>20</sup> leader
  - Tamás Károly Gergye, head of chamber<sup>21</sup>
  - Csaba Pecsénye, head of chamber
  - József Surányi, head of chamber
  - Rita Varga, head of chamber<sup>22</sup>
- The following judicial leaders were elected as NJC substitute members<sup>23</sup>:
  - Zsuzsanna Mária Bán, district court president
  - Ádám Bittera, district court president
  - Andrea Demeter, district court vice-president
  - Gábor Boda, group leader
  - Éva Kaáli, group leader
  - Emese Nyáregyházy Sánta, head of chamber

**Amnesty International stresses that the above concerns solely relate to the election process of the NJC that happened between September 2023 and 15 January 2024, and cannot be interpreted or construed in any form as an evaluation or assessment of the integrity or independence of the newly elected NJC members and substitute members. Neither does this**

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Hungarian Recovery and Resilience Plan], 30 January 2023, <https://www.mabie.hu/index.php/1690-itelkezes-helyett> p 2. (in Hungarian).

<sup>17</sup> Non-judicial leaders are: Péter Szabó, Fatime Félegyházy Megyesy, Attila Csík, Ágnes Hild, Ildikó Kovács, Ágnes Kozlovsky.

<sup>18</sup> I.e. ordinary courts one level higher than the district courts. Their presidents are appointed by the National Office for the Judiciary.

<sup>19</sup> I.e. lowest level of ordinary courts. Their presidents are appointed by the regional court presidents.

<sup>20</sup> At all courts, within colleges, groups may be formed to deal with certain types of cases within a field (e.g. law enforcement within criminal law). Group leaders are appointed by the regional court presidents.

<sup>21</sup> Either a single judge or a group of judges adjudicates in the name of the court, depending on procedural rules. In case of a group of judges it is called a chamber. Head of chamber is the lowest level of judicial leaders.

<sup>22</sup> As comparison, the current NJC (in January 2024) has one district court vice-president, one vice college leader, one group leader and three heads of chamber as members.

<sup>23</sup> Non-judicial leader substitute members are: Ágota Kovaliczky, Dóra Kardos, Tamás Berkes, Anna Madarasi, Katalin Móri, Krisztina Szigeti, Anita Miju, and Róbert Fellai-Markovics

**document foreshadow or imply in any way any of the activities and future operation of the newly elected NJC.**

### **Why does the NJC election matter?**

Effective from 1 June 2023, the Judicial Reform significantly strengthened the legal status and competences of the National Judicial Council (NJC) of Hungary to effectively supervise court administration.<sup>24</sup>

The NJC is the self-administrative body of Hungarian judges, whose constitutional role is to supervise the courts' administration including the NOJ and it plays a crucial role in defending the judicial independence. With the Judicial Reform, the NJC gained legal personality, has a staff and budget, strong co-decision powers in the appointment of judges and judicial leaders, secondments, and may inspect any document regarding court administration, propose laws and must be consulted on draft laws on the judiciary, and is able to enforce its prerogatives at the court.

Now, as the NJC has strengthened competences, it is more critical than ever to safeguard the independence of the NJC by ensuring that its composition represents the will of the judges and is free from any formal or informal pressure. Only an independent NJC may fulfil its constitutional role in line with its strengthened powers.

**With regard to the election procedure of NJC members and substitute members, Amnesty International reiterates its earlier recommendations that were made for the assessment of the draft Judicial Reform Act in February 2023<sup>25</sup>. This includes not only the need for further guarantees into the election procedure, but the need for the law to exclude judicial leaders falling under the appointment authority of the NOJ President or their relatives to become NJC members or substitute members in the future. Amnesty International believes that judicial leaders falling within the power of appointment of the NOJ President should refrain from any activities that might put direct or indirect pressure on the judges of their courts, including endorsing certain delegates or publicly sharing their opinion on the desirable outcome of the election.**

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<sup>24</sup> For an in-depth analysis of the new status and competences of the NJC, see: Amnesty International Hungary, Eötvös Károly Institute, Hungarian Helsinki Committee: Assessment of Hungary's judicial reform, 23 May 2023. <https://www.amnesty.hu/joint-assessment-of-hungarys-judicial-reforms>

<sup>25</sup> Amnesty International Hungary, Eötvös Károly Institute, Hungarian Helsinki Committee, *Assessment of the Government's Draft Proposal on the amendment of certain laws on justice related to the Hungarian Recovery and Resilience Plan*, published on 18 January 2023 in light of the milestones set out in the Annex to the European Commission's proposal, 3 February 2023, [https://www.amnesty.hu/wp-content/uploads/2023/02/2023judicial\\_package\\_assessment\\_AIHU\\_EKINT\\_HHC-3.pdf](https://www.amnesty.hu/wp-content/uploads/2023/02/2023judicial_package_assessment_AIHU_EKINT_HHC-3.pdf) section VII.2.