



## SUPREME COURT REPUBLIC OF ESTONIA

### Input to the 2021 Rule of Law report

#### Introduction

The Supreme Court is the highest court in Estonia and shall review court judgments by way of cassation proceedings. The Supreme Court is also the court of constitutional review. For more information please see: <https://www.riigikohus.ee/en/supreme-court-estonia>.

#### Justice System

##### *Appointment and selection of judges and court presidents*

As of 2020 it is possible to temporarily involve a judge of county court and circuit court in composition of administrative court. The chairmen of circuit courts may, by their joint decision, temporarily send a judge of a county court or circuit court without his or her consent to an administrative court for review the applications for detention of aliens if this is required for administration of justice pursuant to the requirements. The Council for Administration of Courts may establish specified principles for temporary involvement of a judge of a county court and circuit court in the composition of an administrative court (Section 45-2 of the [Courts Act](#)).

Last year a new institution was introduced – a procedural secondment of judges. The chairman of a court may send a judge, subject to his or her consent and at the request of the chairman of another court, to hear a matter in another court of the same or lower instance if this is required for administration of justice pursuant to the requirements. The judge shall retain his or her authority of administration of justice also in the court in which territorial jurisdiction is his or her permanent place of service (Section 58-3 of the Courts Act).

Regarding the retirement regime of judges, a new provision entered into force: the Supreme Court *en banc* may, upon the consent of the judge and on the proposal of the chairman of the court, extend the authority of the judge who has been released from office at his or her own request or due to his or her age, if this is required for finalising the hearing of the matters distributed to the judge. In such case the judge shall not lose the right to receive the judge's pension provided them and shall be paid additionally 25% of the salary of the judge. The term of authority shall be determined by the Supreme Court *en banc* on the proposal of the chairman of the court. The authority of a judge may be extended up to the attainment of the last maximum age of the judge.

As of 1st of July 2020 the Minister of Justice may, with the approval of the Supreme Court *en banc*, release the chairman of a court from office prematurely upon his or her election or appointment as a European Chief Prosecutor, European Prosecutor or European Delegated Prosecutor of the European Public Prosecutor's Office (next to other possibilities stipulated in

Section 24 (4) of the Courts Act. Additionally, Riigikogu shall release the Chief Justice of the Supreme Court from service on the proposal of the President of the Republic upon his or her election or appointment as a European Chief Prosecutor, European Prosecutor or European Delegated Prosecutor of the European Public Prosecutor's Office (Section 27 (5-1 of the Courts Act). These situations are equivalent to situations when chairman or judges are employed as judges in international court institutions and etc (Section 58-1 of the Courts Act).

#### *Allocation of cases in courts*

As of 30th of June 2020 it is possible to refer a matter to another court without changing jurisdiction. To specify, at the request of the chairman of a county court or administrative court, the chairmen of circuit courts may, by their joint decision, refer a matter which can be determined on the basis of general elements to another court of the same instance for judgment if this is required for administration of justice pursuant to the requirements, in particular if it is evident that it is not possible to ensure administration of justice pursuant to the requirements in the court the chairman of which filed the request, by the measures provided for in subsection 45 (1-1) of the Courts Act. Referral of a matter from a county court is allowed only to another county court and from an administrative court only to another administrative court. The distribution of matters referred to another court for judgment shall take place in accordance with the division of tasks plan of the other court, on a random basis. The jurisdiction of a matter or the location of hearing a matter shall not change upon referral of the matter to another court for judgment. The Council for Administration of Courts may establish specified principles for referral of matters to another court for judgment.

Regarding specialisation of judges, the Council for Administration of Courts shall establish the specific bases for the preparation of the division of tasks plan of judges, including the principles of specialisation of judges. Previously the Courts Act stipulated, that the division of tasks plan shall ensure specialisation of judges to matters involving minors and matters relating to insolvency. In January 2021 it was added that tasks plan shall also ensure specialisation of judges to matters relating to insolvency.

#### *Remuneration/bonuses for judges*

As mentioned in the previous input to the Rule of Law report, the salary of judges is established by law in the [Salaries of Higher State Servants Act](#). Additional remuneration for judges is regulated in Section 76 of the Courts Act. As of 30th of June 2020 and according to Sections 11-1 (3) and 19-1 (3) of the Courts Act some new expenses are reimbursed for the judges: if a judge hears a matter in a courthouse which is not his or her permanent place of service, travel and accommodation expenses, as well as other secondment expenses shall be reimbursed to him or her on the conditions and pursuant to the procedure established under subsection 44 (5) of the [Civil Service Act](#).

Additionally, if a judge who has been temporarily involved in the composition of an administrative court hears a matter outside the territorial jurisdiction of the court which is his or her permanent place of service, travel and accommodation expenses, as well as other secondment expenses shall be reimbursed to him or her on the conditions and pursuant to the procedure established under subsection 44 (5) of the Civil Service Act.

*Significant developments capable of affecting the perception that the general public has of the independence of the judiciary*

The Ministry of Justice is preparing a draft law about the openness court procedures (and in some way of court judgments). This draft proposes many changes in procedural laws regarding the publication of first and second instance court judgments which have not entered into force; data protection questions, the possibility for third persons to see digital case files, questions about restrictions on public access to court sessions.

*Length of proceedings*

According to the procedural statistics of 2020, civil cases were resolved in county courts on average in 95 days (same as in 2019), criminal cases were resolved on average in 255 days in general criminal proceedings (226 in 2019), 27 days in simplified proceedings (same in 2019) and 47 days in misdemeanour cases (46 in 2019). In the first instance, administrative cases were resolved in an average of 126 days (123 in 2019). The average processing time for appeals was 182 days in civil cases (162 in 2019), 51 days in criminal cases (44 in 2019) and 192 days in administrative cases (197 in 2019). These results are somewhat surprising in a positive way, taking in consideration the COVID-19 pandemic situation and also the fact that there was record-breaking amount of incoming civil cases in 2020 (comparing to last seven years). This resulted in the fact, that the courts made 7% more decisions in civil cases comparing to last year (in county courts). Additionally, the amount of general criminal proceedings rose 7% and there were 8% more administrative cases comparing to 2019. The average efficiency in civil matters of county courts was 98,9% in 2020 (cases finalised vs. incoming cases, including cases left from last year). The average efficiency in criminal matters of county courts was 100,1%, misdemeanour matters 99,6% and in administrative matters 92,5%.

In the past year, the Supreme Court has operated at a capacity of 98% (97% in 2018, 102% in 2019).