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History

Creation of court system 1918-1920

On 24 February 1918 the “Manifesto to all Peoples of Estonia” of the Board of Elders of the Estonian Diet, declaring Estonia’s sovereignty, was published. The Manifesto declared the principles on which the democratic republic was to be built.

Section 1 of the Manifesto stated the following: “All citizens of the Republic of Estonia irrespective of their religion, nationality and political views, shall enjoy equal protection before the laws and the court of the Republic.” Section 4 of the Manifesto required that the Provisional Government “[...] immediately set up courts for the protection of security of the citizens.”

On 18 November 1918 the Provisional Government issued a regulation entitled “Establishment of provisional courts”, which was the first piece of legislation of the Estonian state concerning the courts. In November 1918 the Tallinn Circuit Court as a national court of appeal commenced its activities in Tallinn. Pursuant to the order of the then Minister of Justice Jüri Jaakson all courts on the territory of the Republic of Estonia were to commence work on 2 December 1918.

1918 – 1920 Jüri Jaakson was the Minister of Justice of the Provisional Government and of the Government of the Republic. On 13 November 1918, Jaak Reichmann, who was appointed the first Chairman of the Court of Appeal, became the first judge of the sovereign Estonian state appointed to office by the Provisional Government.

Estonia’s courts 1920-1940

Thus, by 1920 the system of justice had been launched. The court system then had three instances, like today, but it had four links. The justices of the peace or the magistrates constituted first link of the then court system. The appellation instances of the justices of the peace were the Commissions of the peace, later known as circuit courts. The third link was the national Court of Appeal – the Kohtupalat, later the Kohtukoda. The Supreme Court formed the fourth link. A peculiarity of the whole system was that all courts functioned as courts of first instance in regard to certain cases.

The end of the court system in 1940

The developments of the first half of 1940 brought about changes in the court system, too. In the summer of 1940 the power to appoint and release judges was taken from the President of the Republic and vested in the Council of People’s Commissars. The new government actively started to release from office and arrest judges.

On 16 November 1940 the Presidium of the Provisional Supreme Council of the Estonian SSR passed a

decree on reorganisation of the judicial system. In 1940 and 1941 the judges of lower instance courts were relocated, some were released from office forever. The magistrates and circuit courts were maintained. The Supreme Court of the Estonian SSR was formed on the basis of the Court of Appeal, the Supreme Court of Estonia ceased to exist.

Re-establishment of court system 1990?1993

On 16 May 1990 the Supreme Council of the Republic of Estonia adopted the Principles of Temporary Procedure of Estonian Government Act, putting an end to the subjection of the Supreme Court of Estonia to the Supreme Court of the USSR. The administration of justice on Estonian territory was separated from the judicial power of the USSR and given into the sole competence of Estonian courts.

Late in the evening of 20 August 1991 the Supreme Council of the Republic of Estonia passed a resolution “on the independence of the Estonian State and on the formation of the Constitutional Assembly”, by which the independent Republic of Estonia was restored.

A few months later, in October, the Supreme Council of the Republic of Estonia passed the Republic of Estonia Courts Act and the Status of Judges Act. The referred Acts were passed to resolve the issues related to the judicial office and functioning of the court system. These Acts were the foundation for the creation of a three-level court system. The next important step was taken in the spring of 1992, when the Supreme Council passed a resolution on the judicial reform. According to the resolution the Supreme Court was to be re-established.

On 28 June 1992 the Constitution was adopted by a referendum. The main organisational task of that time was to find people to perform the judicial tasks. For example, in 1993 there were 120 vacant judicial offices, the filling of which proved easier than expected.

Estonia’s courts 1993?2008

Pursuant to the Constitution Estonia has a three-level court system, comprising the county courts and administrative courts, the circuit courts and the Supreme Court.

On 19 June 2002 a new Courts Act was passed, which entered into force on 29 July 2002. A very important change introduced by the Act was the establishment of the Council for Administration of Courts. The aim of establishing the Council was to involve the judges of all court instances in making the decisions concerning the whole judicial system, as up to then it was only the Ministry of Justice who had governed the first and second court instances. The creation of the Council for Administration of Courts was an important step in the formation of an integral and independent court system, as referred to in the Constitution.

On 1 May 2004 Estonia acceded to the European Union. Estonian courts became the courts of the European Union and Estonian judges became European judges who, in their daily work, resort also to the European legislation, alongside the Estonian law.

Since 2006 the issues of integrity and independence of the court system have been discussed with increasing intensity. On 1 December 2006 the first meeting for the discussion of development principles of the judicial system was held, and on 9 February 2007 the Estonian Court *en banc* adopted the principles of development of the judicial system, which envisage the merger of all three court instances into a single independent and self-administering whole.

HISTORY OF THE SUPREME COURT

The creation of a sovereign state also implied taking responsibility for the administration of justice on the highest level. On 21 October 1919 the Constituent Assembly passed the Supreme Court Act, which – in

conjunction with the Constitution of 1920 – laid a strong legal foundation for the highest court at the top of the judicial system of the Estonian state.

The first court session of the Supreme Court was held in the assembly hall of the Tartu Town Hall on 14 January 1920. Why in Tartu? The Supreme Court was removed to Tartu with the hope of guaranteeing greater independence from the other branches of the state power, better contact with the legal scholars of the University of Tartu, better possibilities of making use of the University library and greater accessibility for the population.

The Constituent assembly elected the first members of the Supreme Court in October 1919. A member of the Constituent Assembly Kaarel Parts was elected the Chief Justice of the court, Paul Beniko, Rein Koemets, Jaan Lõo, Hugo Reiman, Martin Taevere and Peeter Puusepp were elected members of the court. The Supreme Court of that time comprised 11 members.

The Constituent Assembly declared Tartu as the seat of the Supreme Court. The first public session of the Supreme Court took place on 14 January 1920 in the assembly hall of Tartu Town Hall. Pursuant to law the Supreme Court was first and foremost a court of cassation. There were three departments in the court, the highest body was the court *en banc*. Cassation proceedings were allowed in all civil and criminal matters, restrictions were minimum.

The Civil Department of the Supreme Court heard appeals in cassation against the judgments of National Court of Appeal (Kohtupalat) and appeals against judgments of Justice of the Peace Courts (rahukogud) as the courts of second instance.

The Criminal Department was competent to hear appeals and protests in cassation against the judgments of National Court of Appeal and Justice of the Peace Courts in criminal matters. The department was also the highest military court. The Administrative Department of the Supreme Court was the highest administrative court. The Supreme Court was the first and the last court instance which reviewed complaints against the decisions, orders and failures to act of ministries and other higher administrative agencies. It was also possible to submit appeals for revision of and protests against the judgments of Justice of the Peace Courts and justices of the peace in administrative matters.

The following were within the competence of the Supreme Court *en banc*:

- administration of the lower courts;
- appointment to and release from office of judges;
- unification of judicial practice.

In the interest of guaranteeing uniform interpretation of law the Supreme Court *en banc* and the Departments could give binding interpretations of laws. These were published for general information in the Riigi Teataja (The State Gazette) and in law journal Õigus (The Law).

The Supreme Court comprised a State Prosecutor's Office, headed by a prosecutor of the Supreme Court. The 1939 Amendment of the Constitution Act and the Constitution of 1938 placed the appointment to and release from office of judges within the competence of the Head of State. By the decree of the Prime Minister of 1934 the Supreme Court was transferred from Tartu to Tallinn. In 1935 the Supreme Court started its work in Wismari Street, Tallinn.

In 1940 the Soviet Union annexed the Republic of Estonia and this resulted in the liquidation of the Supreme Court.

On 29 December 1940 a directive on the termination of the activities of the Supreme Court was issued. Two days later the Supreme Court held its last session. It is known that in 1940 justices Peeter Kann, Paul Välbe and Aleksander Hellat were arrested. Kaarel Parts died of an illness on 5 December 1940.

In 1940, when the Supreme Court was liquidated, 52 years remained until the appointment of the new Chief Justice and 53 years until the re-opening of the Supreme Court in Tartu.

The foundations for the restoration of the activities of the Supreme Court were laid by the Constitution of the Republic of Estonia, adopted by a referendum on 28 June 1992. The Constitution vested with the Supreme Court the functions of a court of cassation and of a court of constitutional review. Tartu became the seat of the Supreme Court once again.

The first public session of the newly re-established Supreme Court took place on 27 May 1993, in the assembly hall of Tartu Town Hall. The session was chaired by the first Chief Justice Rait Maruste. The President of the Republic Lennart Meri and the former secretary of the Administrative Department of the Supreme Court Robert Tasso participated as guests of honour.

From 1998 to 2004 the Estonian Chief Justice was Uno Lõhmus, and he was followed by Märt Rask. The term of office of Märt Rask ended in September 2013.

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