SUPREME COURT OF ESTONIA

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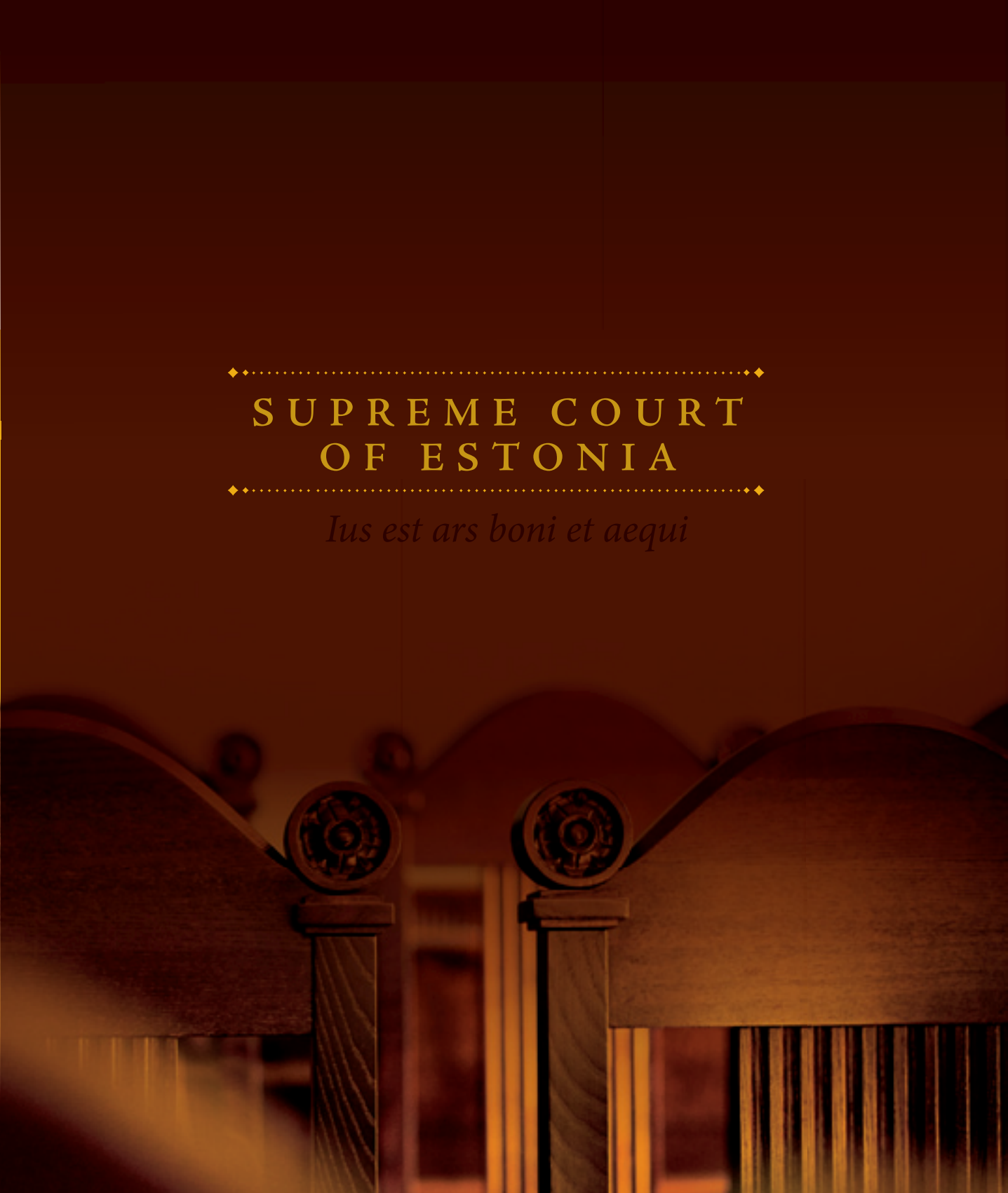

SUPREME COURT
REPUBLIC OF ESTONIA

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ESTONIAN COURT SYSTEM

The structure of the Estonian court system is one of the simplest in Europe. The first instance comprises **county courts** (4) and **administrative courts** (2), the second instance comprises **courts of appeal** (2) and the third instance is **the Supreme Court**. Four county courts are situated in a total of 17 courthouses and two administrative courts in four courthouses across the country.

In addition to being the highest court of general jurisdiction and the highest administrative court, the Supreme Court is also **a constitutional court**.

Judgments of the Supreme Court are final and cannot be appealed against. If all possibilities for settling a legal dispute within Estonia have been exhausted, a person may file a separate appeal with the European **Court of Human Rights**. The court in Strasbourg, France, can establish whether the country has infringed upon a person's fundamental rights, but it cannot annul judgments of Estonian courts. However, the judgment of the European Court of Human Rights may later be a basis for a review procedure[1] in the Supreme Court.

The **European Court of Justice** in Luxembourg verifies the application of European Union law, e.g. the European Court of Justice verifies whether a Member State of the EU has fulfilled its obligations arising from EU law. In the course of judicial proceedings Estonian courts may ask for a preliminary ruling from the European Court of Justice on how to interpret and apply EU law.

SUPREME COURT
(situated in Tartu)

COURTS OF APPEAL
(Tallinn Court of Appeal
and Tartu Court of Appeal)

COUNTY COURTS
(Harju, Pärnu, Tartu and Viru
County Court)

ADMINISTRATIVE COURTS
(Tallinn Administrative Court and
Tartu Administrative Court)

[1] A review procedure means the review of a final judgment or order when new important facts have become evident.

SUPREME COURT

Under the Constitution of the Republic of Estonia, the Supreme Court is the highest court in Estonia and reviews court judgments by way of cassation proceedings. The Supreme Court is also the court of constitutional review, i.e. the constitutional court.

The Supreme Court has 19 justices. All justices (except the Chief Justice of the Supreme Court) administer justice in one of three Chambers: **the Civil Chamber, the Criminal Chamber** or **the Administrative Chamber**.

The Chief Justice of the Supreme Court is ex *officio* the Chairman of the **Constitutional Review Chamber**. Eight more members elected from among the justices of the Supreme Court by way of rotation administer justice in the Chamber.

The Courts Act imposes on the Supreme Court several tasks relating to ensuring appropriate administration of justice throughout the court system.

Chief Justice of the Supreme Court

Civil Chamber	Criminal Chamber	Administrative Chamber	Constitutional Review Chamber
7 justices	6 justices	5 justices	Chief Justice of the Supreme Court and 8 members elected from among the justices of the Supreme Court

Courts defend people's rights and the rule of law.

Pre-litigation proceedings in Supreme Court

In **civil, criminal and administrative cases an appeal in cassation, an appeal against a court order or a petition for the review of a court judgment or order** can be filed with the Supreme Court. The Supreme Court does not accept all filed appeals. Pre-litigation proceedings are not required only in the event of appeals filed with the Constitutional Review Chamber.

If a party to proceedings finds that the court of appeal has fundamentally breached a provision of procedural law or has incorrectly applied substantive law, they may file with the Supreme Court an appeal in cassation or an appeal against the judgment or order of the court of appeal. Only in judicial proceedings of misdemeanour cases an appeal in cassation can be filed against a judgment of a county court.

By way of review of a court decision it is possible to apply for the review of a court decision that has entered into force. For example, when a new important fact or evidence, which was not known during the making of the judgment, but based on which a different decision would probably have been made, becomes evident.

The building of the Supreme Court on Toome Hill, Tartu

Appeal in cassation

- In general, an appeal can be filed with the Supreme Court only through a qualified representative. An appeal can be filed in person only in administrative or non-contentious proceedings.
- A security must also be paid upon having recourse to the Supreme Court. The minimum security is 25 euros. No security is required in criminal, misdemeanour or constitutional review proceedings.

The other party to an appeal must file a response to the appeal.

An appeal is reviewed by a panel consisting of three justices of the relevant chamber and of law clerks.

If even one of the three justices reviewing an appeal finds that there is a ground for acceptance, the appeal will be accepted for adjudication. A case will be accepted for adjudication if:

- the court of appeal has evidently applied a provision of substantive law incorrectly in its judg-ment or has fundamentally breached a provision of procedural law and it may have resulted in an incorrect judgment,
- adjudication of the appeal in cassation has fundamental importance with respect to ensuring legal certainty and developing uniform judicial practice or for further development of law.

If the justices who reviewed the appeal are unanimously convinced that the appeal is clearly un-founded and there are no grounds for accepting the appeal for adjudication, the appeal will be rejected.

Proceedings in Supreme Court

If **an appeal in a civil, criminal, misdemeanour or administrative case has been accepted for adjudication, the Chairman of the Chamber will appoint a panel to hear the case.** Appeals are generally heard by a panel of three justices. The Chairman will appoint a justice who will report on the case, ensure the hearing of the case and the preparation of the judgment or order. The Chairman will also appoint the presiding justice and, based on a proposal of the reporting justice, the time of the hearing.

An oral hearing will be held only if a party to the proceedings has requested it or if the court deems it necessary.

As a rule, the Supreme Court adjudicates appeals by way of **written hearings** and does not hold any oral hearings. All appeals against court orders are adjudicated by way of a written hearing, regardless of the requests of the parties to the proceedings.

In general, the Supreme Court will verify, by way of the cassation procedure, the correctness of a judgment of a court of appeal only to the appealed extent. The Supreme Court will verify on the basis of the appeal whether the court of appeal has followed the provisions of the applicable court procedure act and has correctly applied the substantive law.

The proceedings in the Supreme Court and the judgment are based, above all, on the facts established by the judgment of the lower instance court. Usually, only a dispute on points of law takes place in the Supreme Court and the Supreme Court itself does not gather or examine evidence or ascertain the facts serving as the basis for the appeal.

If the judges of the panel hearing a case have fundamentally dissenting opinions on the application of the law or when it proves necessary to amend an opinion of the Chamber given in an earlier judgment, the case will be referred for adjudication to **the full Chamber**.

If, upon hearing a case, a panel of the Supreme Court wishes to deviate from an earlier opinion of another Chamber in the application of the law, the case will be referred to **a special panel** composed of the members from up to three Chambers who have dissenting opinions.

A case will be placed before the **Supreme Court *en banc***, i.e. all justices of the Supreme Court, if it is considered necessary to adopt a different opinion in the application of the law than expressed in a recent judgment of the Supreme Court *en banc* or when the adjudication of the case by the Supreme Court *en banc* is essential for the uniform application of the law.

Generally, the Supreme Court will make a judgment within thirty days after the last hearing or, in the case of written proceedings, within thirty days after the date of expiry of the term for submission of requests and documents. The term for the making of a judgment may be extended for up to sixty days with good reason.

Disagreements between the members of a panel hearing a case will be settled by voting. Members of a panel do not have the right to abstain from voting or remain undecided. The justice representing a minority in voting may draw up a reasoned dissenting opinion that will be made public along with the judgment.

By a judgment, the Supreme Court may:

- refuse to grant an appeal or amend a judgment of a lower instance court;
- annul a judgment of a lower instance court in whole or in part and refer the annulled judgment for a new hearing to the same or another court;
- annul a judgment of a lower instance court and return the case without review or terminate the proceedings;
- amend a judgment of a lower instance court or render a new judgment without referring the case for a new hearing if there is no need to gather additional evidence or amend the analysis given to the evidence in the appeal proceedings;
- annul a judgment of a court of appeal and uphold the judgment of the court of first instance.

STRUCTURE OF SUPREME COURT

Chief Justice of the Supreme Court Priit Pikamäe

Chief Justice of the Supreme Court

Since 13 September 2013, the Chief Justice of the Supreme Court is Dr. iur. Priit Pikamäe. His term of office will end in 2022.

Priit Pikamäe was born in Tallinn on 22 November 1973. He is married and has two children. He graduated from the Faculty of Law of the University of Tartu and defended the degree of *magister iuris* there after studying in the faculties of law of the universities of Poitiers and Paris I (Panthéon-Sorbonne) in France. In 2006 he obtained a Doctoral degree in law from the University of Tartu. He is a guest professor at the Faculty of Law of the University of Tartu, and his main field of research is penal law: criminal procedure and imprisonment law.

Pikamäe is the first Chief Justice of the Supreme Court to have served as a judge at all three instances of the three-instance court system in Estonia. Previous Chief Justices – Kaarel Parts, Rait Maruste, Uno Lõhmus and Märt Rask - have come to the Supreme Court from outside of the Estonian court system. Priit Pikamäe has worked as a judge since 2001 when he started as a judge in the former Tallinn City Court (presently Harju County Court) before moving on to the Tallinn Court of Appeal. In 2006, the Estonian Parliament elected him as a justice of the Supreme Court, and from 2010 to 2013 he served as the Chairman of the Criminal Chamber. Before his career in the Judiciary, he worked at the Ministry of Justice.

Supreme Court *en banc* session

The Chief Justice of the Supreme Court directs the work of the highest court in Estonia, also acting as the Chairman of the Constitutional Review Chamber. Under the Courts Act, the Chief Justice must each spring give the Parliament an overview of the situation of administration of justice and court administration in the state the previous year.

Under the Courts Act, the Chief Justice is appointed to office by the *Riigikogu* on a proposal of the President of the Republic for nine years. No one is appointed Chief Justice for two consecutive terms.

Justices of the Supreme Court

The Chief Justice of the Supreme Court will announce a public competition for a vacant position of a justice of the Supreme Court. Before the Chief Justice of the Supreme Court makes a proposal to the *Riigikogu* for the appointment of a justice, the Chief Justice will consider the opinion of the Supreme Court *en banc* and the Council for Administration of Courts concerning the candidate. The Parliament will appoint a justice for life.

According to law, a justice of the Supreme Court has to be a citizen of the Republic of Estonia who holds a Master's degree in law and is an experienced and recognised lawyer, proficient in Estonian, of high moral character and has the abilities and characteristics required of a justice.

Unlike the judges of the first and second instance, a candidate for the position of a justice of the Supreme Court is not required to undergo the preparatory service of a judge or pass a judge exam.

Justices of the Administrative Law Chamber Jüri Põld, Indrek Koolmeister and Tõnu Anton at the deliberations

Facts about justices of the Supreme Court

- Six justices of the Supreme Court have a Doctoral degree in law.
- The average age of justices of the Supreme Court is 55 years as of the end of 2013. The youngest justice is 37 years of age and the oldest is 64 years of age.
- Two of the 19 justices of the Supreme Court are women.

Positions of justices in office prior to their appointment as a justice of the Supreme Court

- **Member of the Parliament**
- **First instance court judge**
- **Appeal court judge**
- Judge of the High Court of the Estonian Soviet Socialist Republic
- Advocate
- Prosecutor
- Lecturer in university

Civil, Criminal and Administrative Chamber

There are four Chambers in the Supreme Court: the Civil Chamber, the Criminal Chamber, the Administrative Chamber and the Constitutional Review Chamber. Every justice (except the Chief Justice of the Supreme Court) belongs either to the Civil, Criminal or Administrative Chamber. The Chief Justice of the Supreme Court *ex officio* directs the activities of the Constitutional Review Chamber whose members are elected from among the justices of other Chambers.

Chairmen of the Chambers Hannes Kiris, Tõnu Anton and Ants Kull at the deliberations

There are seven justices in the Civil Chamber of the Supreme Court.

Since 2004 the Chairman of the Civil Chamber is Ants Kull.

There are six justices in the Criminal Chamber of the Supreme Court.

Since 2013 the Chairman of the Criminal Chamber is Hannes Kiris.

There are five justices in the Administrative Chamber of the Supreme Court.

Since 1993 the Chairman of the Chamber is Tõnu Anton.

In the preparation and hearing of cases, the justices are assisted by advisers and secretaries of the Chamber. The Supreme Court has 33 advisers.

Advisers of the Constitutional Review Chamber Kristi Aule Parmas, Ulrika Eesmaa, Katri Jaanimägi and Tim Kolk

Constitutional Review Chamber

The *ex officio* Chairman of the Constitutional Review Chamber is the Chief Justice of the Supreme Court Priit Pikamäe.

In addition to the Chief Justice of the Supreme Court, there are eight justices of the Supreme Court in the Constitutional Review Chamber. Each year, on the proposal by the Chief Justice, The Supreme Court *en banc* appoints from among the justices of the Supreme Court two new members of the Constitutional Review Chamber and releases two most senior members from the duties of member of the Chamber. Whereas, the Supreme Court *en banc* takes into account the opinions of the Administrative, Criminal and Civil Chambers and tries to ensure that they are represented in the Constitutional Review Chamber as equally as possible.

By way of constitutional review the Supreme Court verifies the conformity of legislation of general application, refusal to issue an instrument of legislation of general application or an international agreement with the Constitution. In addition, the Constitutional Review Chamber of the Supreme Court has several more specific functions. For example, the *Riigikogu* may request from the Supreme Court an opinion on the interpretation of the Constitution in conjunction with European Union law if the interpretation of the Constitution is of decisive importance in the passing of a draft Act that is necessary for the fulfilment of obligations of the Member State of the European Union.

The following institutions can have recourse to the Supreme Court by way of constitutional review:

the President of the Republic,

the Chancellor of Justice,

local authority councils and

courts.

The Constitutional Review Court Procedure Act does not provide for the possibility to address the Supreme Court with individual constitutional complaints. Nevertheless, in its practice the Supreme Court has accepted the possibility of individual complaints in cases where a person has no other effective opportunity to exercise the constitutional right to the protection of the courts.

Pursuant to the Constitutional Review Court Procedure Act, the Supreme Court must adjudicate a constitutional review case within four months as of the receipt of the appeal.

Number of cases reviewedheard by the Constitutional Review Chamber of the Supreme Court

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Cases heard	10	7	18	22	23	37	17	23	23	36	14	29	21

Supreme Court *en banc*

The Supreme Court *en banc* is the highest body of the Supreme Court, which is comprised of all the 19 justices of the Supreme Court. The Supreme Court *en banc* is convened and chaired by the Chief Justice of the Supreme Court.

The Supreme Court has two kinds of functions. First, the functions of administration of justice:

- the Supreme Court *en banc* reviews court decisions on the grounds provided by law,
- resolves appeals filed against decisions of the judge's examination committee and the Disciplinary Chamber of Judges.

Second, the functions of court administration:

- makes a proposal to the President of the Republic to appoint a judge of the first or second instance to office or release a judge from office;
- decides the initiation of disciplinary proceedings against the Chief Justice of the Supreme Court, and notifies the *Riigikogu* thereof;
- performs other duties arising from law and the internal rules of the Supreme Court.

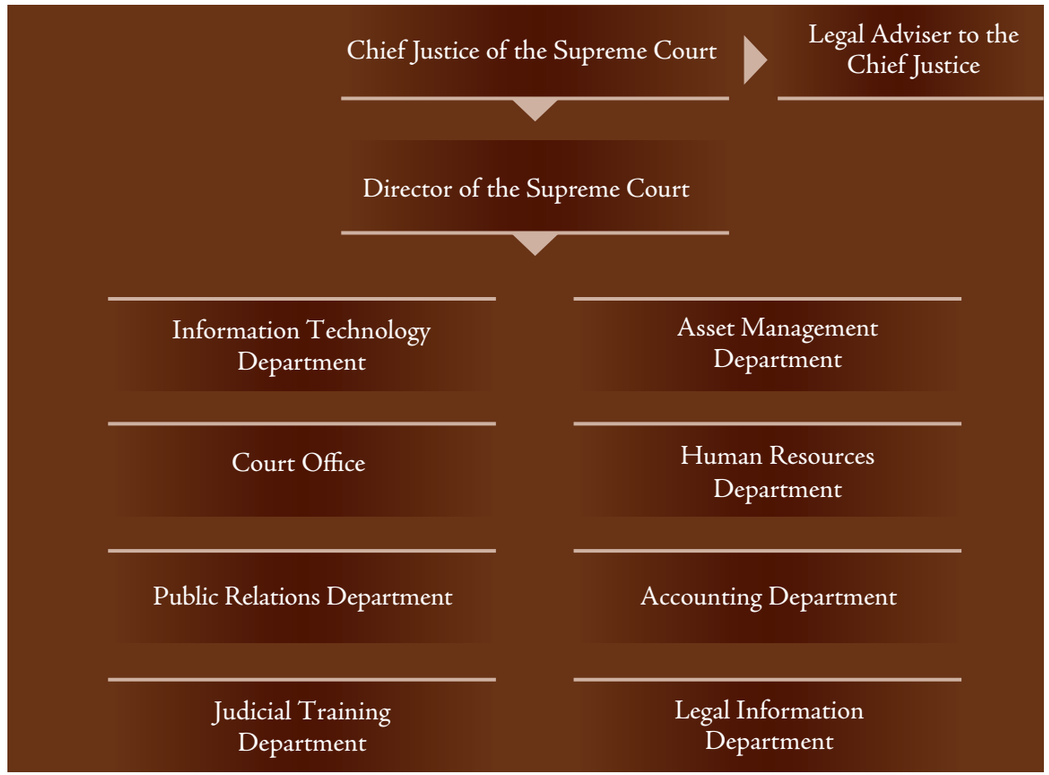
The Supreme Court *en banc* hearing

Supreme Court Administration

The Supreme Court employs a little more than a hundred people, including justices and court officers. In addition to the Chambers engaged in the administration of justice, the Supreme Court comprises eight auxiliary departments managed by the Director of the Supreme Court.

The Director of the Supreme Court is Kerdi Raud. The Director directs and coordinates the work of the structural units and is responsible for budgeting and implementation of the budget. It is the duty of the Director to establish and guarantee the prerequisites and conditions for the efficient and independent functioning of the administration of justice.

Director of the Supreme Court Kerdi Raud



The Supreme Court Office is responsible for ensuring the operation of the court, the circulation and public disclosure of documents, as well as proper archival processing thereof.

The Accounting Department keeps the Supreme Court's accounts.

The Human Resources Department formulates and executes the human resources policy of the Supreme Court and organises staff records management and registration. The department has the duty to provide support services to the Judge Examination Committee and the Disciplinary Chamber, and to keep records concerning the service of Estonian judges.

The Asset Management Department administers the assets in the possession of the Supreme Court and organises the security service.

The Information Technology Department maintains and develops the electronic databases, hardware and software of the Supreme Court.

The Legal Information Department facilitates the unification of judicial practice and ensures the accessibility of relevant legal information. The department systematises and analyses court orders and judgments and judicial statistics, and coordinates the rendering of opinions on draft legislation. Within the limits of its competence the department responds to people's letters and organises the reception of persons, and proofreads the orders and judgments of the Supreme Court.

Sirje Kaljumäe, Adviser to the Administrative Chamber

Merje Talvik, Head of the Public Relations Department, and Mari-Liis Lipstok, Executive Assistant to the Chief Justice

Tim Kolk, Adviser to the Constitutional Review Chamber

The Public Relations Department manages the Supreme Court's relations with the general public and coordinates the public relations activities of the Supreme Court and the court system. The department is responsible for the development and implementation of the information policy of the Supreme Court and manages the internal communication of the Supreme Court and the court system.

The Judicial Training Department organises judicial training and provides support services to the Training Council. The Judicial Training Department identifies the training needs of judges, prepares the strategies for training and training programs, and organises the implementation thereof.

The Legal Adviser to the Chief Justice acts independently of the servicing departments. The assistant has the duty to provide advice to the Chief Justice in guaranteeing the comprehensive development of the court system and courts' administration, and to perform and distribute the functions assigned by the Chief Justice in the management of the court. The assistant to the Chief Justice is also responsible for the foreign relations of the Supreme Court through organising communication with the courts of other countries and international judicial organisations.

JUDGES' SELF-GOVERNMENT AND SUPREME COURT

It is the duty of the Supreme Court as the highest court to promote the uniform application of the law through the review of court judgments. Besides administration of justice, the Supreme Court has the role of guaranteeing proper functioning of the administration of justice in the entire court system, especially through organisation of the work of the self-government bodies of judges.

The self-government bodies of judges play an important role in the development of the court system through the decisions they take concerning the development of administration of justice and the judicial system. The majority of the self-government bodies are clerically supported by the Supreme Court. The work of two such bodies – the Court *en banc* and the Council for Administration of Courts - is directed by the Chief Justice of the Supreme Court.

The Court *en banc*

The Court *en banc* is the largest judicial representative body, comprising all Estonian judges. The Court *en banc* is convened every year in early February. The extraordinary Court *en banc* may be convened by the Chief Justice of the Supreme Court or the Minister of Justice any other time.

The Court *en banc* discusses the problems of administration of justice as well as other issues concerning courts and the work of judges. The Court *en banc* hears reports by the Chief Justice of the Supreme Court and the Minister of Justice concerning the development of the legal and court system, elects members of judicial self-government bodies and representatives to the examination committees, professional suitability assessment committees and disciplinary committees of other legal professions.

The Court *en banc* has discussed, for example, the directions of the development of the court system, the draft Courts Act, the possibilities for analysing the workload of judges, the methods of giving feedback to judges and the public relations strategy of the courts.

Council for Administration of Courts

Under the Courts Act, the administration of courts must ensure the possibility for independent administration of justice, the working conditions required for administration of justice in the court system, adequate training of court officers and the accessibility of administration of justice in the state. Courts of the first instance and courts of appeal are administered jointly by the Ministry of Justice and the Council for Administration of Courts. The Supreme Court as a constitutional institution administers itself.

The Council for Administration of Courts is an advisory body convened for the management of the court system. The most important decisions concerning the court system and relating to administration of courts are first discussed and approved by the Council for Administration of Courts.

The Council for Administration of Courts is comprises the Chief Justice of the Supreme Court, five judges elected by the Court *en banc* for three years, two members of the *Riigikogu*, representatives of the Bar Association and the Prosecutor's Office, and the Chancellor of Justice or a representative appointed by the Chancellor of Justice. The Minister of Justice or a representative appointed by the Minister of Justice participates in the work of the Council with the right to speak. The Council is chaired by the Chief Justice of the Supreme Court.

The Council for Administration of Courts:

- gives a preliminary opinion on the principles of the formation and amendment of annual budgets of court institutions prepared by the Minister of Justice;
- gives an opinion on the candidates for a vacant position of a justice of the Supreme Court and on the release of judges;
- deliberates, in advance, the review to be presented to the parliament by the Chief Justice of the Supreme Court concerning courts administration, administra-tion of justice and the uniform application of law.

The most important decisions of the Minister of Justice that can be taken only with the approval of the Council for Administration of Courts are following:

- determination of the number of judges in the first and second instance courts;
- determination of the territorial jurisdiction, structure and exact location of first and second instance courts;
- the appointment to office and premature release of chairmen (presidents) of first and second instance courts.

Also, the Council for Administration of Courts grants its advance approval for the determination of the internal rules of a court by the full court, and discusses other issues on the initiative of the Chief Justice of the Supreme Court or the Minister of Justice.

Disciplinary Chamber of Judges

For the adjudication of disciplinary matters of judges the Supreme Court forms the Disciplinary Chamber of Judges.

A disciplinary offence is a wrongful act of a judge, which consists of failure to perform or inappropriate performance of official duties, or an indecent act of a judge. Disciplinary proceedings will be initiated if the referred elements of a disciplinary offence become evident. The Courts Act gives the Chief Justice of the Supreme Court the right to initiate disciplinary proceedings against any judge, while the chairman of a court of appeal has the right to initiate disciplinary proceedings against judges of county courts and administrative courts in their territorial jurisdiction, and the chairman of a court has the right to initiate disciplinary proceedings against the judges of the same court. If it is evident that the Chief Justice of the Supreme Court has committed a disciplinary offence, the Supreme Court *en banc* can initiate proceedings for the evaluation of the actions of the Chief Justice.

The Disciplinary Chamber hears a disciplinary matter by way of an oral hearing. If a judge is found guilty of committing a disciplinary offence, the Disciplinary Chamber will make a decision by which the judge is convicted of the disciplinary offence and a disciplinary penalty will be imposed on the judge. **Disciplinary penalties** include a reprimand, a fine in an amount of up to one month's salary, a reduction in salary and removal from office. The Disciplinary Chamber may remove a judge from service during the hearing of a disciplinary matter and reduce the judge's salary by no more than half for such period.

The Disciplinary Chamber is composed of five justices of the Supreme Court, five court of appeal judges and five first instance judges.

Judge Examination Committee

The main duty of the Judge Examination Committee is the assessment of legal knowledge and suitability of personal characteristics of county, administrative or court of appeal judge or judicial office candidates.

The committee presents the results of the competition to the Supreme Court *en banc* who will make the final selection and decide on making a proposal to the President of the Republic to appoint a judge to office. The final selection from among the persons who apply for the position of a candidate for judicial office is made by the Judge Examination Committee who will make a proposal to the chairman of the court to appoint a person as a candidate for judicial office. A candidate for judicial office will undergo a preparatory service for two years in a county or administrative court. At the end of the preparatory service the candidate for judicial office will take a judge's examination.

The duties of the Judge Examination Committee include monitoring the preparatory service and assessing the results of the preparatory service of candidates for judicial office. The committee also monitors the work of judges who have been in office for less than three years by gathering opinions of the chairmen of courts about them. The committee will submit to the Supreme Court *en banc* its opinion on the suitability for office of a judge once the term of three years is about to expire. If the committee has received information referring to the unsuitability of a judge who has been in office for less than three years, the committee will hear the judge before making a decision on the judge's suitability for office. The committee will also perform other duties arising from law.

The Judge Examination Committee has ten members and is established for five years. The committee comprises two first instance court court judges elected by the Court *en banc*, two court of appeal judges, two justices of the Supreme Court, and a representative of the Law Faculty of the University of Tartu, the Ministry of Justice, the Bar Association and the Prosecutor's Office.

From left: freshly appointed first instance court judges Aivar Klint, Deniss Minzatov and Marju Persidskaja, President Toomas Hendrik Ilves, freshly appointed first instance court judges Kristi Rickberg and Kadri Roos, and former Chief Justice Märt Rask

Judicial Training Council

The Training Council is responsible for the functioning and development of the training of judges: the council approves the strategies for training judges, the annual training programs and the program for the judge's examination.

The Training Council comprises two judges of a court of first instance, two judges of a court of appeal, two justices of the Supreme Court, and one representative of the Prosecutor's Office, the Ministry of Justice and the University of Tartu.

The Supreme Court rendering support services to the Training Council identifies the training needs of judges and formulates the strategies for training judges, annual training programs and the program of the judge's examination. Additionally, the Supreme Court analyses training results, ensures the preparation of the necessary study and methodological materials, assists in the preparation and selection of training providers, and prepares an annual review concerning the training of judges for the Training Council.

The staff of the Training Department of the Supreme Court: Mari-Liis Timmermann, Karolyn Krillo, Tanel Kask, Reet Lepa and Liis Lindström.

INTERNATIONAL COOPERATION

The Supreme Court represents the Estonian court system in several international cooperation networks. Organisations with which the Supreme Court cooperates have also been assembled keeping in mind the regional aspect: they either unite the court systems of the Member States of either the Council of Europe or the European Union.

The aim of the international relations of the Supreme Court is, above all:

- to exchange experiences with justices of other countries;
- to adapt the gained comparative knowledge in the everyday work of justices both in the administration of justice as well as in the fields supporting the administration of justice, e.g. in training justices;
- to introduce the Estonian court system.

In 2014, the Supreme Court is a member of the following cooperation networks:

- Association of Councils of State and Supreme Administrative Jurisdictions of the European Union (ACA-EUROPE)
- Network of the Presidents of European Supreme Judicial Courts of the European Union
- EU Forum of Judges for the Environment
- European Judicial Training Network, EJTN
- International Organisation for Judicial Training, IOJT
- Conference of European Constitutional Courts
- World Conference of Constitutional Justice
- European Commission for Democracy through Law, the Venice Commission

Lea Kivi, a justice of the Supreme Court, representing the Supreme Court (at a seminar for Estonian-German criminal justices)

HISTORY OF ESTONIAN COURT SYSTEM AND SUPREME COURT

Creation of the court system 1918–1920

On 24 February 1918 the Board of Elders of the Estonian Diet published its Manifesto to all Peoples of Estonia, declaring Estonia a sovereign country. The Manifesto also set out 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 law and the courts of the Republic.' Section 4 of the Manifesto required that the Provisional Government '[...] immediately set up courts for the protection of the security of the citizens.'

On 18 November 1918 the Provisional Government issued a regulation titled 'Establishment of provisional courts,' which was the first piece of legislation of the Estonian state concerning the courts.

In November 1918 a national court of appeal commenced its activities in Tallinn. Pursuant to the order of the former Minister of Justice Jüri Jaakson, all courts on the territory of the Republic of Estonia were to commence work on 2 December 1918.

From 1918 to 1920 Jüri Jaakson was the Minister of Justice of the Provisional Government and of the Government of the Republic.

Jaak Reichmann

Jüri Jaakson

Kaarel Parts

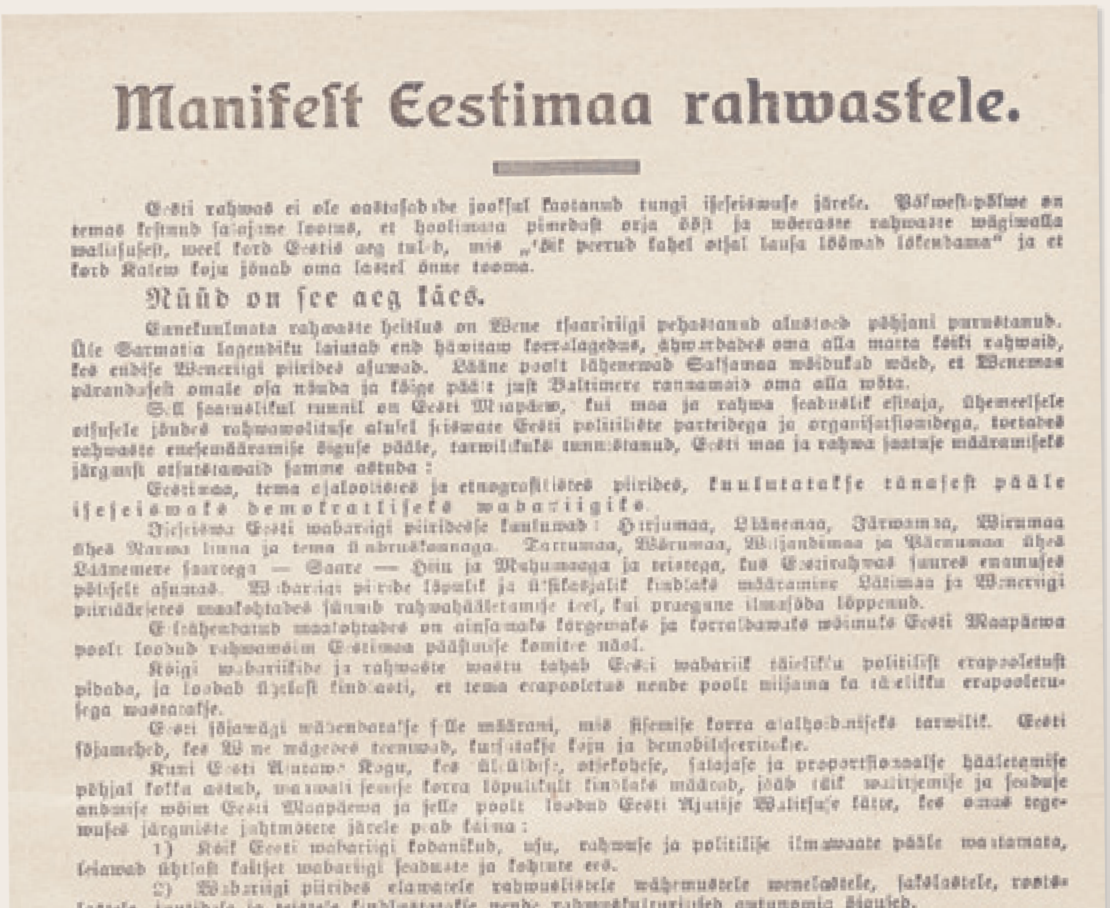
On 13 November 1918, Jaak Reichmann, who was appointed the first Chairman of the Court of Appeal, became the first judge of the sovereign Estonian state appointed to office by the Provisional Government.

On 21 October 1919 the Constituent Assembly passed the Supreme Court Act that, 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 Constituent Assembly elected the first members of the Supreme Court in October 1919. The former Chairman of the Provincial Assembly and a member of the Constituent Assembly Kaarel Parts was elected the Chief Justice, and 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 a total of 11 justices.

The Constituent Assembly declared Tartu as the seat of the Supreme Court. The highest court was established in Tartu with the hope of achieving its 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 first hearing of the Supreme Court was held in the assembly hall of the Tartu Town Hall on 14 January 1920.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Estonian courts 1920–1939

By 1920 the court system had formally been launched. The court system had three instances, like today, but four links. Justices of the peace or magistrates constituted the first link of the former court system. The appeal instances of the justices of the peace were the Commissions of the Peace, later known as courts of appeal. The third link was the national Court of Appeal - the *Kohtupalat*, later known as the *Kohtukoda*. The Supreme Court was the fourth link. All courts functioned as courts of first instance in certain cases.

Pursuant to law, the Supreme Court was first and foremost a cassation court. The court had three departments and the highest body was the Supreme Court *en banc*.

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

The Criminal Department was competent to hear appeals and protests in cassation against the judgments of the National Court of Appeal and the Commission of the Peace in criminal matters. The department was also the highest military court. Cassation proceedings were allowed in all civil and criminal cases without almost any restrictions.

The Administrative Department of the Supreme Court was the highest administrative court. The Supreme Court was the first and the last instance that heard complaints against the decisions, orders and omissions of ministries and other higher administrative agencies. It was also possible to file appeals for revision of and protests against the judgments of the Commission of the Peace and justices of the peace in administrative cases.

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

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

In the interest of guaranteeing uniform interpretation of the 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).

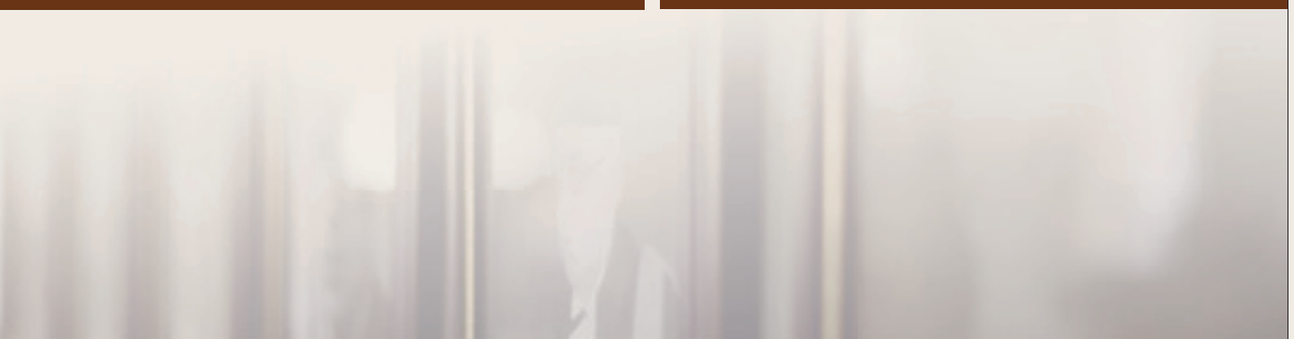
The Supreme Court included the Public Prosecutor's Office, headed by the Prosecutor of the Supreme Court.

The 1933 Amendment of the Constitution Act and the Constitution of 1938 placed the appointment and release of judges to and from office 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. The location of the Supreme Court has been associated from the beginning with the issue of the independence of the Judiciary, but in 1934 there was no room for a debate. In 1935 the Supreme Court started its work in Wismari Street, Tallinn.

The first building of the Supreme Court in Vanemuise Street in Tartu 1920-1935

The building of the Supreme Court in Wismari Street in Tallinn 1935-1940



Reorganisation of Estonian court system in 1940

The Military Bases Agreement with the Soviet Union in 1939 and the developments in the first half of 1940 brought about changes to the court system. In the summer of 1940 the power to appoint and release judges was taken from the President of the Republic and was vested in the Council of Peoples Commissars. The new government actively started releasing judges from office and arresting judges.

On 16 November 1940 the Presidium of the Provisional Supreme Council of the Estonian SSR passed a decree on the reorganisation of the judicial system.

On 29 December 1940 a directive on the termination of the activities of the Supreme Court was signed. Only two days later the former Supreme Court held its last hearing.

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. Paul Poom died in 1982 in Sweden as the last justice of the former Supreme Court.

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

In 1940 and 1941 the judges of lower instance courts were relocated and some were released from office forever. The magistrates and courts of appeal were maintained. The *Kohtukoda* was transformed into the High Court of the Estonian Soviet Socialist Republic.

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 was placed within 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 decided to reform the judicial system.

The main organisational task of that time was to find new people to perform the judicial duties. For example, in 1993 there were 120 vacant judicial offices in the court system. However, the filling of the vacant offices proved easier than expected.

The foundations for the restoration of the activities of the Supreme Court were laid by the Constitution

of the Republic of Estonia and 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 the Tartu Town Hall. 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 1992 to 1998 the Chief Justice of the Supreme Court was Rait Maruste, from 1998 to 2004 Uno Lõhmus.

Estonian courts since 1993

On 19 June 2002 a new Courts Act that entered into force on 29 July 2002 was passed. Compared to the previous version, 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 decisions concerning the whole judicial system, as up to that time it was only the Ministry of Justice that had governed the first and second court instances. The creation of the Council for Administration of Courts was an important step forward 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 that apply European legislation alongside Estonian law in their daily work.

The Training Council systematically and consistently organises in-service training for judges at all instances. In 2011, the Court *en banc* adopted the methodology and criteria for the provision of feedback to judges that allow for analysing the efficiency of the work of a judge. The work of a judge is recognised by the award known as 'Sharpest Pen in Court' and an award for the best training provider.

Analysis of case law is also carried out consistently, which contributes to identifying problems related to court proceedings and generalising court practice and supports the training activities of judges. Analysis of case law has become necessary supporting material in obtaining an overview of case law, drawing up judicial decisions and preparing draft acts.

In 2011, the Council for Administration of Courts approved a communication strategy that harmonises the communication principles of courts and respective activities. The aim of the strategy is to support, through communication work, the activities of courts in protecting the rights of people and a state based on the rule of law.

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