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## Courts Act

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Amended by the following acts

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29.01.2003	RT I 2003, 21, 121	15.03.2003
18.12.2003	RT I 2003, 90, 601	01.01.2008
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19.05.2004	RT I 2004, 46, 329	01.07.2004
28.06.2004	RT I 2004, 56, 403	01.03.2005
22.02.2005	RT I 2005, 15, 85	01.01.2006
15.06.2005	RT I 2005, 39, 308	01.01.2006
15.12.2005	RT I 2005, 71, 549	01.01.2006
26.01.2006	RT I 2006, 7, 42	04.02.2006
15.03.2006	RT I 2006, 15, 118	14.04.2006
11.10.2006	RT I 2006, 48, 357	18.11.2006
23.11.2006	RT I 2006, 55, 411	23.12.2006
06.12.2006	RT I 2006, 61, 456	01.01.2007
25.01.2007	RT I 2007, 16, 77	01.01.2008
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08.05.2008	RT I 2008, 20, 139	01.01.2009
19.06.2008	RT I 2008, 29, 189	01.07.2008
10.12.2008	RT I 2008, 59, 330	01.01.2009
18.12.2008	RT I 2009, 4, 27	26.01.2009
20.02.2009	RT I 2009, 15, 93	01.03.2009
18.02.2009	RT I 2009, 15, 94	10.03.2009, applied to persons in respect to whom criminal conviction enters into force after entry into force of the Act.
16.12.2009	RT I 2009, 67, 460	01.01.2010
09.12.2009	RT I 2009, 68, 463	10.01.2010
16.12.2009	RT I 2010, 1, 2	enters into force on the starting date of authority of XII composition of the Riigikogu, date of entry into force changed to 01.01.2012; date of entry into force partially changed to 01.01.2013 [RT I, 28.12.2011, 1]; 01.07.2013 [RT I, 29.12.2012, 1]
24.11.2010	RT I, 20.12.2010, 1	01.01.2011
08.12.2010	RT I, 28.12.2010, 6	01.01.2012
27.01.2011	RT I, 23.02.2011, 1	01.09.2011
27.01.2011	RT I, 23.02.2011, 3	01.01.2012
09.02.2011	RT I, 04.03.2011, 1	01.04.2011

07.12.2011	RT I, 28.12.2011, 1	01.01.2012, partially on the tenth day following the date of publication of this Act in Riigi Teataja.
06.06.2012	RT I, 29.06.2012, 3	01.01.2013, partially 01.07.2012
13.06.2012	RT I, 06.07.2012, 1	01.04.2013
13.06.2012	RT I, 10.07.2012, 3	01.04.2013
12.12.2012	RT I, 29.12.2012, 1	01.01.2013, partially 01.04.2013 and 01.07.2013
12.12.2012	RT I, 29.12.2012, 2	01.01.2013
05.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially 01.01.2015 and 01.01.2020
04.02.2014	RT I, 06.02.2014, 13	04.02.2014 - The decision of the Supreme Court en banc declares subsection 125 <sup>1</sup> (2) of the Courts Act and subsection 174 (8) of the Code of Civil Procedure in the part pursuant to which the procedure expenses in a civil proceeding may be determined by a judicial clerk to be in conflict with the Constitution and repealed.

## **Chapter 1**

### **GENERAL PROVISIONS**

#### **§ 1. Scope of application of Act**

This Act provides the legal bases for courts administration and court service.

#### **§ 2. Administration of justice and independence of court**

(1) Justice shall be administered solely by the courts.

(2) No one has the right to interfere with the administration of justice.

(3) Acts which are directed at disturbing the administration of justice are prohibited in courts and in the vicinity thereof.

#### **§ 3. Main guarantees for independence of judges**

(1) Judges shall be appointed for life.

(2) Judges may be removed from office only by a court judgment.

(3) Criminal charges against a judge of a court of the first instance and a court of appeal may be brought during their term of office only on the proposal of the Supreme Court *en banc* with the consent of the President of the Republic.

(4) Criminal charges against a justice of the Supreme Court may be brought during his or her term of office only on the proposal of the Chancellor of Justice with the consent of the majority of the composition of the Riigikogu.

#### **§ 4. Jurisdiction of court**

(1) Jurisdiction of a court shall be provided by law.

(2) A case may be transferred from the jurisdiction of one court to the jurisdiction of another court only on the bases and pursuant to the procedure provided by law.

#### **§ 5. Working language of courts**

(1) Judicial proceedings and operations procedure in court shall be conducted in Estonian.

(2) The use of another language in judicial proceedings shall be provided by the Codes of procedure.

## **§ 6. Working hours of court**

(1) Judges shall organise their working hours independently. A judge shall perform his or her duties within reasonable time, having regard to the terms for proceedings prescribed by law.

(2) Court sessions shall be held on working days during the period between 9 a.m. and 12 a.m. A court session may continue after such time if the court finds it justified in the interests of administration of justice.

(3) For the adjudication of a criminal matter by way of expedited procedure, in order to decide the imposition of a punishment for a misdemeanour, or the grant of permission to apply a preventive measure or to take an administrative measure, a court session may also be held at another time.

[RT I 2006, 15, 118 - entry into force 14.04.2006]

## **§ 7. Judicial institution**

(1) County courts, administrative courts, circuit courts and the Supreme Court are judicial institutions.

(2) A judicial institution shall have its own budget and a seal bearing the small national coat of arms.

(3) A judicial institution shall be registered in the state register of state and local government agencies pursuant to the procedure provided for in the statutes of the register.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 8. Court service**

(1) Court service is employment in a judicial institution. Judges and court officers are in court service.

(2) The Public Service Act applies to judges only in cases which are provided for in this Act.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(3) The Public Service Act applies to court officers unless otherwise prescribed by this Act.

## **§ 8<sup>1</sup>. Access of judges to state secrets and classified information of foreign states**

(1) Judges have the right by virtue of office to access state secrets and classified information of foreign states in order to perform duties which have been assigned to them by the Constitution or Acts of the Republic of Estonia and by legislation issued on the basis thereof.

(2) If pursuant to an international agreement conducting the security check is a mandatory precondition for granting the right of access to classified information of foreign states, the security check shall be conducted also in respect to judges.

(3) To conduct the security check specified in subsection (2) of this section, the judge shall complete the form used to apply for an access permit to state secrets and sign the consent which permits the agency which performs security checks to obtain information concerning the person from natural and legal persons and state and local government agencies and bodies during the performance of the security check, and submit these to the Supreme Court *en banc*.

(4) The Supreme Court *en banc* determines the agency conducting the security check in respect to the judge to which the Supreme Court forwards the documents specified in subsection (3) of this section.

(5) The security check agency submits the information collected in respect to the judge in the course of the performed security check within three months as of the sending of the documents specified in subsection (3) of this section the Supreme Court *en banc* to decide whether the judge has passed the security check. The access certificate to classified information of foreign states is issued pursuant to the procedure prescribed in the State Secrets and Classified Information of Foreign States Act.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

## **§ 8<sup>2</sup>. Registration of procedural documents in court**

(1) Any procedural documents received in and sent from court are registered in the courts information system and court file. The specific procedure of registration is prescribed in the internal rules of the court office.

(2) Procedural documents received in and sent from court are not registered in the documents register in case the participant in proceedings is provided with access to the procedural documents through webpage or information system.

[RT I 2009, 68, 463 - entry into force 10.01.2010]

## **Chapter 2**

# **COURTS OF FIRST INSTANCE**

### **Division 1**

## **County courts**

[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 9. County courts**

(1) A county court shall hear civil, criminal and misdemeanour matters as court of first instance. A county court shall also perform other acts the performance of which is placed within the jurisdiction of the courts by law.

(2) The following are county courts:

- 1) Harju County Court;
- 2) Viru County Court;
- 3) Pärnu County Court;
- 4) Tartu County Court.

(2<sup>1</sup>) A county court shall have one or several courthouses.

(3) Courthouses shall be located in the territorial jurisdiction of a county court. The Minister of Justice shall determine the exact location and service areas of courthouses. The location of every courthouse is also the location of the county court.

(4) The structure of county courts and the composition of the staff of court officers shall be determined by the director of court, except in the field related to the performance of the function of administration of justice. In such field, the structure of the court and the composition of the staff of court officers shall be determined by the chairman of the court. In determination of the structure of a court and the composition of the staff of court officers, the provisions of § 43 of this Act shall be taken into consideration.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 10. Territorial jurisdiction of county courts**

(1) The territorial jurisdiction of county courts shall be determined by the Minister of Justice.

(2) Courts which adjudicate matters of a particular type without considering the territorial jurisdiction may be provided by law.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 10<sup>1</sup>. Location of hearing civil, criminal or misdemeanour matters**

[Repealed - RT I, 23.02.2011, 1 - entry into force 01.09.2011]

#### **§ 11. Number of county judges**

The number of judges in each county court and their division among courthouses shall be determined by the Minister of Justice after having considered the opinions of the chairman of the county court and the chairman of the circuit court in whose territorial jurisdiction the court is located.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 11<sup>1</sup>. Permanent place of service of a county court judge**

[RT I 2005, 15, 85 - entry into force 01.01.2006]

(1) The permanent place of service of a county court judge shall be in the courthouse where he or she is appointed by the Supreme Court *en banc*(subsection 55 (3)), the full court (subsection 57 (1)) or the chairman of the court (subsection 57 (2)).

[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) A county court judge shall hear a matter in a court session in the courthouse provided for in § 10<sup>1</sup> of this Act. A judge shall not refuse to hear a matter in another courthouse of the same county court.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

(3) If a judge hears a matter in a courthouse which is not his or her permanent place of service, travel and accommodation expenses shall be reimbursed to him or her. Other mission expenses shall also be reimbursed to the judge on the bases and pursuant to the procedure established by the Government of the Republic.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

## **§ 12. Chairmen of county courts**

(1) The chairman of a county court shall be appointed from among the judges of the court for five years. The chairman of a court is appointed by the Minister of Justice after having considered the opinion of the full court.

(2) The chairman of a county court shall represent and direct the judicial institution within the limits of his or her competence. The chairman of a court is responsible for administration of justice in the court pursuant to the established procedure.

(3) The chairmen of county courts shall:

- 1) organise activities in the area of administration of justice;
- 2) approve the draft budget of the court prepared by the director of court;
- 3) exercise supervisory control prescribed by law;
- 4) prepare the draft of the training plan of judges and submit it for approval to the full court, organise and monitor compliance with the plan and present a review on compliance with the plan to the full court at least once a year;
- 5) perform other duties arising from law and the internal rules of the court.

(4) The Minister of Justice may release the chairman of a court prematurely:

- 1) at the request of the chairman of the court;
  - 2) if the chairman of the court has failed to perform his or her duties wrongfully to a material extent;
  - 3) upon his or her election or appointment as a judge of European Court of Human Rights, European Court of Justice or other international court institution (hereinafter international court institution) (§ 58<sup>1</sup>).
- [RT I, 04.03.2011, 1 - entry into force 01.04.2011]

(5) In the case specified in clause (2) 4) of this section, the Minister of Justice shall consider the opinion of the full court and the opinion of the chairman of the circuit court in whose territorial jurisdiction the county court is located.

(6) In the absence of the chairman of a court, a judge designated by the chairman shall substitute for him or her. If the chairman of a court has not designated an acting chairman, a judge who is senior in office shall substitute for him or her, and where there is equal seniority in office, a judge who is senior in age shall substitute for him or her.

(7) If the chairman of a court is released from the office of judge, he or she shall also be released from the duties of the chairman of a court.

(8) Upon release of the chairman of a court from the duties of the chairman of a court, he or she shall retain the authority of a judge.

(9) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

## **§ 12<sup>1</sup>. Manager of courthouse**

(1) The chairman of a county court shall appoint a manager of the courthouse from among the judges serving in each courthouse for a term of five years after having considered the opinion of the judges serving in the courthouse. In the courthouse where the permanent place of service of the chairman of the court is located a manager of the courthouse is not appointed.

(2) The manager of the courthouse shall arrange the communication between the courthouse and the chairman of the county court and shall perform other duties arising from law and the internal rules of the court.

(3) The chairman of a county court may release a manager of a courthouse prematurely:

- 1) at the request of the manager of the courthouse;
- 2) due to failure of co-operation with the chairman of the county court.

(4) In the absence of the manager of the courthouse, a judge designated by the chairman of the county court may substitute for him or her.

(5) If the manager of the courthouse is released from the office of judge, he or she shall also be released from the duties of the manager of the courthouse.

(6) Upon release of a judge from the duties of the manager of the courthouse, he or she shall retain the authority of a judge.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

**§ 13. [Repealed - RT I 2005, 15, 85 - entry into force 01.01.2006]**

**§ 14. Lay judges**

The number of lay judges in each county court shall be determined by the Minister of Justice with the approval of the Council for Administration of Courts after having considered the opinion of the full court of the county court.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

**§ 15. Land registry department**

(1) Each county court shall comprise a land registry department.

(2) A land register and marital property register shall be maintained in a land registry department.

(3) [Repealed - RT I 2005, 15, 85 - entry into force 01.01.2006]

(4) An assistant judge designated by the director of court shall be the head of the land registry department. A land registry department shall be comprised of assistant judges and other court officers.

[RT I 2007, 67, 413 - entry into force 28.12.2007]

**§ 16. Registration department**

(1) Each county court shall comprise a registration department.

(2) A commercial register, Non-profit Associations and Foundations Register, commercial pledge register and ship register shall be maintained in a registration department.

(3) [Repealed - RT I 2005, 15, 85 - entry into force 01.01.2006]

(4) An assistant judge designated by the director of court shall be the head of the registration department. A registration department shall be comprised of assistant judges and other court officers.

[RT I 2007, 67, 413 - entry into force 28.12.2007]

**§ 16<sup>1</sup>. Payment orders department**

(1) Pärnu County Court has a payment orders department.

(2) The payment orders department hears petitions for expedited procedure in a matter of a payment order.

(3) An assistant judge designated by the director of court shall be the head of the payment orders department. A payment orders department shall be comprised of assistant judges and other court officers.

[RT I 2009, 67, 460 - entry into force 01.01.2010]

**§ 17. [Repealed - RT I 2008, 17, 118 - entry into force 01.06.2008]**

## **Division 2 Administrative courts**

**§ 18. Administrative courts**

(1) Administrative courts shall hear administrative matters placed within the jurisdiction thereof as courts of first instance. Administrative courts shall also perform other acts the performance of which is placed within the jurisdiction of the courts by law.

(2) The following are administrative courts:

- 1) Tallinn Administrative Court;
- 2) Tartu Administrative Court.

(2<sup>1</sup>) An administrative court shall have one or several courthouses.

(3) Courthouses shall be located in the territorial jurisdiction of the administrative court which shall be determined by the Minister of Justice. The Minister of Justice shall determine the exact location and service areas of courthouses. The location of every courthouse is also the location of the administrative court.

(4) The structure of administrative courts and the composition of the staff of court officers shall be determined by the director of court, except in the field related to the performance of the function of administration of justice. In such field, the structure of the court and the composition of the staff of court officers shall be determined by the chairman of the court. In determination of the structure of a court and the composition of the staff of court officers, the provisions of § 43 of this Act shall be taken into consideration.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 18<sup>1</sup>. Location of hearing of administrative matters**

[Repealed - RT I, 23.02.2011, 3 - entry into force 01.01.2012]

### **§ 19. Number of administrative court judges**

The number of judges in each administrative court and their division among courthouses shall be determined by the Minister of Justice after having considered the opinions of the chairman of the administrative court and the chairman of the circuit court in whose territorial jurisdiction the court is located.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 19<sup>1</sup>. Permanent place of service of administrative court judge**

(1) The permanent place of service of an administrative court judge shall be in the courthouse where he or she is appointed by the Supreme Court *en banc*(subsection 55 (3)) or the full court (§ 57).

(2) An administrative court judge shall hear a matter in a court session in the courthouse provided for in section § 18<sup>1</sup> of this Act. A judge shall not refuse to hear a matter in another courthouse of the same administrative court.

(3) If a judge hears a matter in a courthouse which is not his or her permanent place of service, travel and accommodation expenses shall be reimbursed to him or her. Other mission expenses shall also be reimbursed to the judge on the bases and pursuant to the procedure established by the Government of the Republic.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 20. Chairmen of administrative courts**

(1) The chairman of an administrative court shall be appointed from among the judges of the court for five years. The chairman of a court is appointed by the Minister of Justice after having considered the opinion of the full court.

(2) The chairman of an administrative court shall represent and direct the judicial institution within the limits of his or her competence. The chairman of a court is responsible for administration of justice in the court pursuant to the established procedure.

(3) The chairmen of administrative courts shall:

- 1) organise activities in the area of administration of justice;
- 2) approve the draft budget of the court prepared by the director of court;
- 3) exercise supervisory control prescribed by law;
- 4) prepare the draft of the training plan of judges and submit it for approval to the full court, organise and monitor compliance with the plan and present a review on compliance with the plan to the full court at least once a year;
- 5) perform other duties arising from law and the internal rules of the court.

(4) The Minister of Justice may release the chairman of a court prematurely:

- 1) at the request of the chairman of the court;
- 2) if the chairman of the court has failed to perform his or her duties wrongfully to a material extent;
- 3) upon his or her election or appointment as a judge of an international court institution (§ 58<sup>1</sup>).

(5) In the case specified in clause (2) 4) of this section, the Minister of Justice shall consider the opinion of the full court and the opinion of the chairman of the circuit court in whose territorial jurisdiction the administrative court is located.

(6) If the chairman of a court is released from the office of judge, he or she shall also be released from the duties of the chairman of a court.

(7) Upon release of the chairman of a court from the duties of the chairman of a court, he or she shall retain the authority of a judge.

(8) In the absence of the chairman of a court, a judge designated by the chairman shall substitute for him or her. If the chairman of a court has not designated an acting chairman, a judge who is senior in office shall substitute for him or her, and where there is equal seniority in office, a judge who is senior in age shall substitute for him or her.

(9) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

### **§ 20<sup>1</sup>. Manager of courthouse**

(1) The chairman of an administrative court shall appoint a manager of the courthouse from among the judges serving in the courthouse for a term of five years after having considered the opinion of the judges serving in the courthouse. In the courthouse where the permanent place of service of the chairman of the court is located a manager of the courthouse is not appointed.

(2) The manager of the courthouse shall arrange the communication between the courthouse and the chairman of the administrative court and shall perform other duties arising from law and the internal rules of the court.

(3) The chairman of an administrative court may release a manager of a courthouse prematurely:

- 1) at the request of the manager of the courthouse;
- 2) due to failure of co-operation with the chairman of the administrative court.

(4) In the absence of the manager of the courthouse, a judge designated by the chairman of the administrative court may substitute for him or her.

(5) If the manager of the courthouse is released from the office of judge, he or she shall also be released from the duties of the manager of the courthouse.

(6) Upon release of a judge from the duties of the manager of the courthouse, he or she shall retain the authority of a judge.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 21. [Repealed - RT I 2005, 15, 85 - entry into force 01.01.2006]**

## **Chapter 3 COURTS OF APPEAL**

### **§ 22. Circuit courts**

(1) A circuit court is the court of appeal which reviews the decisions of county and administrative courts by way of appeal proceedings.

(2) Tallinn Circuit Court and Tartu Circuit Court are circuit courts.

[RT I 2008, 13, 85 - entry into force 01.01.2009]

(3) Harju County Court and Pärnu County Court and Tallinn Administrative Court shall be in the jurisdiction of Tallinn Circuit Court.

(4) Tartu County Court and Viru County Court and Tartu Administrative Court shall be in the jurisdiction of Tartu Circuit Court.

[RT I 2008, 13, 85 - entry into force 01.01.2009]

(5) [Repealed - RT I 2008, 13, 85 - entry into force 01.01.2009]

(6) Tallinn Circuit Court shall be located in Tallinn and Tartu Circuit Court shall be located in Tartu. The Minister of Justice shall determine the exact location of circuit courts.

[RT I 2008, 13, 85 - entry into force 01.01.2009]

(7) The structure of circuit courts and the composition of the staff of court officers shall be determined by the director of court, except in the field related to the performance of the function of administration of justice. In such field, the structure of the court and the composition of the staff of court officers shall be determined by the chairman of the court. In determination of the structure of a court and the composition of the staff of court officers, the provisions of § 43 of this Act shall be taken into consideration.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 23. Number of circuit court judges**

The Minister of Justice shall determine the number of judges in each circuit court after having considered the opinion of the chairman of the circuit court.

### **§ 24. Chairmen of circuit courts**

(1) The chairman of a circuit court shall be appointed from among the judges of the same court for five years. The Minister of Justice shall appoint the chairman of a court after having considered the opinion of the full court of the circuit court.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]



(2) The chairman of a circuit court shall represent and direct the judicial institution within the limits of his or her competence. The chairman of a court is responsible for administration of justice in the court pursuant to the established procedure.

(3) Chairmen of circuit courts shall:

- 1) organise activities in the area of administration of justice;
- 2) approve the draft budget of the court prepared by the director of court;
- 3) exercise supervisory control prescribed by law;
- 4) prepare the draft of the training plan of judges and submit it for approval to the full court, organise and monitor compliance with the plan and present a review on compliance with the plan to the full court at least once a year;
- 5) perform other duties arising from law and the internal rules of the court.

(4) The Minister of Justice may, with the approval of the Supreme Court *en banc*, release the chairman of a court from office prematurely:

- 1) at the request of the chairman of the court;
- 2) if the chairman of the court has failed to perform his or her duties wrongfully to a material extent;
- 3) upon his or her election or appointment as a judge of an international court institution (§ 58<sup>1</sup>).

(5) In the case provided for in clause (4) 2) of this section, the Minister of Justice shall consider the opinion of the full court.

(6) If the chairman of a court is released from the office of judge, he or she shall also be released from the duties of the chairman of a court.

(7) Upon release of the chairman of a court from the duties of the chairman of a court, he or she shall retain the authority of a judge.

(8) In the absence of the chairman of a court, a judge designated by the chairman shall substitute for him or her. If the chairman of a court has not designated an acting chairman, a judge who is senior in office shall substitute for him or her, and where there is equal seniority in office, a judge who is senior in age shall substitute for him or her.

(9) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

## **Chapter 4 SUPREME COURT**

### **§ 25. Supreme Court**

- (1) The Supreme Court is the highest court in the state.
- (2) The Supreme Court shall be located in Tartu.
- (3) The number of justices in the Supreme Court shall be nineteen.

### **§ 26. Jurisdiction of Supreme Court**

(1) The Supreme Court shall review decisions by way of cassation proceedings. In the cases and pursuant to the procedure provided by law, the Supreme Court shall review decisions by way of proceedings for revision or proceedings for the correction of court error, and perform other duties arising from law.

(2) Acceptance for proceedings of matters which fall within the jurisdiction of the Supreme Court shall be decided by a panel of at least three members of the Supreme Court on the basis provided for in law regulating judicial procedure. A matter is accepted for proceedings if the hearing thereof is demanded at least by one justice of the Supreme Court.

- (3) The Supreme Court shall also be the constitutional review court.

### **§ 27. Chief Justice of Supreme Court**

(1) The Chief Justice of the Supreme Court shall be appointed by the Riigikogu on the proposal of the President of the Republic for nine years.

- (2) The Chief Justice of the Supreme Court shall:
  - 1) direct and represent the Supreme Court;

- 2) make a proposal to the Riigikogu to appoint the justices of the Supreme Court to office;
- 3) exercise supervisory control prescribed by law;
- 4) perform other duties arising from law and the internal rules of the court.

(3) Once a year, at the spring session of the Riigikogu, the Chief Justice of the Supreme Court shall present a review to the Riigikogu concerning courts administration, administration of justice and the uniform application of law.

(4) In the absence of the Chief Justice of the Supreme Court or upon the termination of his or her authority as the Chief Justice of the Supreme Court, a justice of the Supreme Court designated by the Chief Justice shall perform the duties of the Chief Justice of the Supreme Court. If the Chief Justice of the Supreme Court has not designated an acting Chief Justice, the chairman of the Chamber specified in § 28 of this Act who is senior in the office of judge shall substitute for him or her, and where there is equal seniority in office, a chairman of a Chamber who is senior in age shall substitute for him or her.

(5) On the proposal of the President of the Republic, the Riigikogu may release the Chief Justice of the Supreme Court prematurely at the request of the Chief Justice of the Supreme Court. The Chief Justice of the Supreme Court shall notify the President of the Republic of his or her resignation from office at least four months in advance.

(5<sup>1</sup>) The 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 judge of an international court institution (§ 58<sup>1</sup>).

(6) If the Chief Justice of the Supreme Court is unable to perform his or her duties for six consecutive months due to illness or for any other reason, the President of the Republic shall file a reasoned request with the Supreme Court to declare by a judgment that the Justice of the Supreme Court is unable to perform his or her duties. A judgment of the Supreme Court *en banc* shall release the Justice of the Supreme Court from office.

(7) If the Chief Justice of the Supreme Court is released from the office of judge, he or she shall also be released from the duties of the Chief Justice of the Supreme Court.

(8) Upon release of the Chief Justice of the Supreme Court from the duties of the Chief Justice of the Court, he or she shall retain the authority of a justice of the Supreme Court.

(9) No one shall be appointed as Chief Justice of the Supreme Court for two consecutive terms.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 28. Civil Chamber, Criminal Chamber and Administrative Chamber of Supreme Court**

(1) The Supreme Court shall comprise the Civil Chamber, Criminal Chamber and Administrative Chamber.

(2) Each justice of the Supreme Court shall be a member of one Chamber. The Supreme Court *en banc* shall decide into which Chamber a justice of the Supreme Court belongs, as well as the procedure and terms for rotation between the Chambers.

(3) The Chief Justice of the Supreme Court has the right to involve, pursuant to the procedure prescribed by the internal rules of the Supreme Court, justices from different Chambers in the panel of the Court which hears a matter.

(4) The Supreme Court *en banc* shall appoint the chairman of a Chamber from among the members of the Chamber.

(5) The chairman of a Chamber shall perform duties arising from the internal rules of the Supreme Court.

#### **§ 29. Constitutional Review Chamber**

(1) The Supreme Court shall comprise the Constitutional Review Chamber which is comprised of nine justices of the Supreme Court.

(2) The Chief Justice of the Supreme Court shall be the chairman of the Constitutional Review Chamber. Other members of the Chamber shall be appointed by the Supreme Court *en banc*.

(3) The internal rules of the Supreme Court shall provide for the term of authority of the members of the Constitutional Review Chamber and the procedure for the substitution of members of the Constitutional Review Chamber.

#### **§ 30. Supreme Court *en banc***

(1) The Supreme Court shall comprise the Supreme Court *en banc*, which is comprised of all justices of the Supreme Court.

(2) The Supreme Court *en banc* shall:

- 1) review decisions on the bases provided by law;
- 2) make a proposal to the President of the Republic to appoint a judge to office or release a judge from office;
- 3) resolve appeals filed against the decisions of the judge's examination committee;
- 4) resolve appeals filed against the decisions of the Disciplinary Chamber;
- 5) decide the commencement of disciplinary proceedings against the Chief Justice of the Supreme Court, and notify the Riigikogu thereof;
- 6) perform other duties arising from law and the internal rules of the Supreme Court.

(3) The Supreme Court *en banc* is convened and chaired by the Chief Justice of the Supreme Court. In order to commence disciplinary proceedings against the Chief Justice of the Supreme Court, a justice who is senior in office shall convene and chair the Supreme Court *en banc*, and where there is equal seniority in office, a justice who is senior in age shall convene and chair the Supreme Court *en banc*.

(4) The Supreme Court *en banc* has a quorum if at least eleven justices are present. The judgements of the Supreme Court *en banc* are adopted by the majority vote of the justices of the Supreme Court who are present. If the votes are divided equally, the Chief Justice of the Supreme Court shall cast the deciding vote.

(5) The Minister of Justice has the right to participate in the Supreme Court *en banc*, except in case where a court decision being reviewed. The Minister of Justice has the right to speak in the Supreme Court *en banc*. The Chief Justice of the Supreme Court may also invite to the Supreme Court *en banc* other persons to whom the Supreme Court *en banc* may grant the right to speak.

### **§ 31. Law clerk**

(1) A law clerk is an official of the Supreme Court who generalises judicial practice and participates in the preparation of cases for proceeding.

(2) The specific duties of a law clerk shall be determined in the internal rules of the Supreme Court.

(3) A person who complies with the educational requirements set for judges may be appointed as law clerk.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 32. Remuneration for work performed by officers of Supreme Court**

The salaries of the court officers of the Supreme Court, the procedure for payment of additional remuneration, bonuses and benefits shall be determined by the Chief Justice of the Supreme Court within the limits of the budget of the Supreme Court.

### **§ 33. Internal rules of Supreme Court**

(1) The organisation of work of the Supreme Court shall be prescribed in the internal rules of the Supreme Court approved by the Supreme Court *en banc*.

(2) The internal rules shall not include provisions concerning rules of court procedure.

(3) The internal procedure rules of the Supreme Court shall be established pursuant to the Public Service Act.

### **§ 34. Courts information system**

(1) Courts information system is a state agency database founded by the Minister of Justice the purpose of which is the organisation of the work of courts, the collection of statistics, the collection and systematisation of court decisions and making these available to courts and the public.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(2) The chief processor of the database is the Ministry of Justice. The authorised processors of the database are the Ministry of Justice and courts of the Republic of Estonia.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(3) The composition of the register data, the procedure for submission of the data and specific procedure for application for access right to the data shall be established by the Minister of Justice with the approval of the Council for Administration of Courts.  
[RT I 2009, 67, 460 - entry into force 01.01.2010]

(4) The following shall have access right to the data in the courts information system:

- 1) state and local government authorities and legal or natural persons for the performance of the duties prescribed by law;
- 2) foreign authorities and persons if this right is provided for in an international agreement.

[RT I 2009, 67, 460 - entry into force 01.01.2010]

(5) The chief processor of the courts information system, the authorised processors and the data recipients specified in subsection (4) of this section is required to maintain the confidentiality of the information which become known to them in the performance of their duties also after the completion of the duties related to the processing of the information or expiry of the service relationship. It is prohibited to disclose the received information to any third parties unless it is prescribed by law. Data recipients are required to use data only for the purpose applied for and observe the conditions provided for in this Act and the Personal Data Protection Act and the conditions arising from restrictions on the use of data established when data are transferred to a data recipient, and ensure that data shall not be accessible by persons who have no right to process data.

[RT I 2009, 67, 460 - entry into force 01.01.2010]

(6) Data recipients who use data for performing the duties prescribed by law are required to immediately notify the chief processor and the authorised processor of any inaccurate, suspicious or incomplete data discovered.

[RT I 2009, 67, 460 - entry into force 01.01.2010]

## **Chapter 5**

# **SELF-GOVERNMENT AND DIVISION OF TASKS OF JUDGES**

### **§ 35. Full court**

(1) Every court shall comprise a full court which is comprised of all the judges of the court.

(2) A full court shall have a quorum if the majority of the judges are present.

(3) A full court is convened by the chairman of the court either independently or at the request of at least two thirds of the judges of the court. The chairman of the court shall be the presiding judge of the full court.

(4) The decisions of the full court shall be adopted by the majority vote of judges who are present. If the votes are divided equally, the chairman of the court shall cast the deciding vote.

(5) The activities of the Supreme Court *en banc* regulated by § 30 of this Act.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 36. Jurisdiction of full court**

A full court shall:

- 1) approve the division of tasks plan of judges;
- 2) provide an opinion to the Minister of Justice on the appointment to office, and in cases provided by law, also on the release from office of the chairman of the court;
- 3) make recommendations to the chairman of the court concerning issues related to the organisation of work;
- 4) perform other duties arising from law and the internal rules of the court.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 37. Division of tasks between judges**

(1) The division of tasks between judges of courts of the first instance and courts of appeal shall be prescribed in the division of tasks plan.

(1<sup>1</sup>) A chairman of a court may, by a directive, reduce his or her workload in administration of justice to the extent necessary for performing the duties of the chairman.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(2) Tasks shall be divided between judges on the basis of the following principles:

- 1) each matter received by the court for hearing shall be divided between judges according to the division of tasks plan;
- 2) matters shall be divided between judges at random and on bases determined in the division of tasks plan;
- 3) in the distribution of matters, as many matters as possible shall be distributed between the judges serving in the courthouse where the matter will be heard.
- 4) the distribution of the matters shall ensure equal workload of judges within a court;

4<sup>1</sup>) the distribution of the matters to a chairman of a court shall take into account the reduced workload in administration of justice on the basis of subsection (1<sup>1</sup>) of this section;

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

5) The Council for Administration of Courts may adopt additional principles for the preparing of the division of tasks plan of judges. When approving the division of tasks plan, courts shall be guided by the principles adopted by the Council for Administration of Courts.

(3) The division of tasks plan shall prescribe the procedure for formation of court panels and for the substitution of judges.

(4) The division of tasks plan shall be approved for one calendar year. During a working year, the full court may amend the division of tasks plan only with good reason.

(5) Everyone can access the division of tasks plan in the court office.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 38. Courten banc**

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(1) The Court *en bancis* comprised of all Estonian judges.

(2) The Court *en banc* shall be convened every year on the second Friday of February. The extraordinary Court *en banc* may be convened by the Minister of Justice or the Chief Justice of the Supreme Court.

(3) Court *en banc* shall:

- 1) hear reports by the Chief Justice of the Supreme Court and the Minister of Justice concerning the development of the legal and court system;
- 2) discuss problems of administration of justice and other issues concerning courts and the work of judges;
- 3) elect, pursuant to subsection 40 (1) of this Act, members and alternate members of the Council for Administration of Courts who are judges;
- 4) elect five circuit court judges and five judges of courts of first instance to participate in the adjudication of disciplinary matters in the Disciplinary Chamber of the Supreme Court;
- 5) elect members and alternate members of the judge's examination committee who are judges;
- 6) elect members and alternate members of the assistant judge's examination committee who are judges;
- 7) elect members and alternate members of the training committee who are judges;
- 8) elect members and alternate members of the court of honour of the Estonian Bar Association, the advocates' professional suitability assessment committee, prosecutors' competition and evaluation committee and sworn translators examination committee who are judges;
- 9) approve the code of ethics of judges.

(4) The Court *en banc* shall be chaired by the Chief Justice of the Supreme Court unless the Court *en banc* decides otherwise.

(5) The procedure of the Court *en banc* shall be established by a majority of votes of the judges participating in the Court *en banc*.

(6) The Supreme Court shall organise the clerical support to the Court *en banc*.

(7) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]

## **Chapter 6 ADMINISTRATION OF COURTS; TRAINING AND SUPERVISORY CONTROL**

### **§ 39. Administration of courts**

(1) Courts of the first instance and courts of appeal are administered in co-operation between the Council for Administration of Courts and the Ministry of Justice. Courts shall perform court administration duties if so provided by law.

(2) The Minister of Justice may transfer the court administration duties which fall within his or her competence to a court.

(3) The Minister of Justice has no right of command or disciplinary authority over the judges.

(4) Administration of courts shall ensure:

- 1) the possibility for independent administration of justice;
- 2) the working conditions necessary for administration of justice;
- 3) adequate training of court officers;
- 4) the availability of administration of justice.

#### **§ 40. Council for Administration of Courts**

(1) The Council for Administration of Courts (hereinafter *Council*) is comprised of the Chief Justice of the Supreme Court, five judges elected by the Court *en banc* for three years, two members of the Riigikogu, a sworn advocate appointed by the Board of the Bar Association, the Chief Public Prosecutor or a public prosecutor appointed by him or her, and the Chancellor of Justice or a representative appointed by him or her. The Minister of Justice or a representative appointed by him or her shall participate in the Council with the right to speak.

(2) Council sessions shall be convened by the Chief Justice of the Supreme Court or by the Minister of Justice. The person who convenes a session shall also determine the agenda thereof. The Council shall be chaired by the Chief Justice of the Supreme Court.

(3) The Council has a quorum if more than half of its members are present. Decisions of the Council shall be made by a majority vote of the members present. The Council shall approve its rules of procedure at the first session. The Ministry of Justice shall organise the clerical support to the Council.

#### **§ 41. Competence of Council for Administration of Courts**

(1) The council grants approval for:

- 1) the determination of the territorial jurisdiction of courts (subsection 10 (1), subsection 18 (3));
- 2) the determination of the structure of courts (subsection 9 (4); subsection 18 (4); subsection 22 (7));
- 3) the determination of the exact location of courts and courthouses (subsection 9 (3); subsection 18 (3); subsection 22 (6));
- 4) the determination of the number of judges in courts (§ 11; § 19; § 23) and judges in permanent service in a courthouse;
- 5) the appointment to office and premature release of chairmen of courts (subsection 12 (1) and clause 12 (4) 2), subsection 20 (1) and clause 20 (4) 2), subsection 24 (1) and clause 24 (4) 2));
- 6) the determination of the number of lay judges (§14);
- 7) the determination of the internal rules of courts (subsection 33 (1); subsection 42 (1));
- 8) the determination of the number of candidates for judicial office (subsection 61 (6));

(9) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]

- 10) the determination of additional remuneration for a manager of courthouse (subsection 76 (3));
  - 11) the establishing of the composition of the register data of the courts information system and the procedure for the submission thereof (subsection 34 (3)).
  - 12) the conscription of judges into active service in the defence forces (subsection 86 (4)).
  - 13) the determination of the amount of remuneration paid to lay judges and payment procedure (subsection 112 (1)).
- [RT I 2006, 55, 411 - entry into force 23.12.2006]

(2) The Council shall provide a preliminary opinion on the principles of the formation and amendment of annual budgets of courts.

(3) The Council shall:

- 1) provide an opinion on the candidates for a vacant position of a justice of the Supreme Court (subsection 55 (4));
- 2) provide an opinion on the release of a judge (clauses 99 (1) 4)-8));
- 3) deliberate, in advance, the review to be presented to the Riigikogu by the Chief Justice of the Supreme Court concerning courts administration, administration of justice and the uniform application of law (subsection 27 (3));
- 4) discuss other issues at the initiative of the Chief Justice of the Supreme Court or the Minister of Justice.

#### **§ 42. Internal rules of courts**

(1) The internal organisation of work of courts of the first instance and courts of appeal shall be prescribed in the internal rules of the courts. The internal rules of a court shall be established by the chairman of the court with the approval of the full court. The internal rules of land registry departments of county courts, registration departments and offices of county courts, administrative courts and circuit courts shall be established by the Minister of Justice.

[RT I 2008, 17, 118 - entry into force 01.06.2008]

(2) The duties of the chairman of the court and other judges arising from the organisation of work of the court and the duties of court officers subordinate to the chairman of the court shall be prescribed in the internal rules of the courts.

(2<sup>1</sup>) The duties of court officers, the operations procedure of the court and other issues concerning the internal organisation of work of the court shall be prescribed in the internal rules of the court offices.

(3) The internal rules shall not include provisions concerning rules of court procedure.

(4) The internal procedure rules and job descriptions of judicial institutions shall be established pursuant to the Public Service Act.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 43. Budget of court**

(1) The Minister of Justice shall approve the budgets of courts of the first instance or courts of appeal within two months after the state budget is passed as an Act, considering the opinion formulated by the Council for Administration of Courts (subsection 41 (2)).

(2) A budget of a county court shall set out the expenditure for the performance of the function of administration of justice separately from the expenditure of the land registry departments and registration departments.

[RT I 2008, 17, 118 - entry into force 01.06.2008]

(3) During a budgetary year, the Minister of Justice may amend the budget expenditure of a court only with good reason after having considered the opinion of the chairman of the court and the director of the court and pursuant to the principles formulated by the Council for Administration of Courts.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(4) The budget of the Supreme Court shall be passed pursuant to the procedure provided for in the State Budget Act.

#### **§ 44. Training of judges**

(1) The Training Council is responsible for the training of judges. The term of the authority of members of the Training Council shall be three years. The Training Council shall be comprised of two judges of a court of the first instance, two judges of a court of appeal, two justices of the Supreme Court, and a representative of the Prosecutor's Office, the Minister of Justice and the University of Tartu. The Training Council shall approve its rules of procedure and elect the chairman. Support services shall be provided to the Training Council by the Supreme Court.

(2) Training of judges shall be based on the strategies for training of judges, annual training programs and the program for judge's examination. The strategies for training of judges, annual training programs and the program for judge's examination shall be prepared by the Supreme Court and approved by the Training Council. The Supreme Court shall submit the training program for the next year to the Training Council no later than by 15 August. Taking into consideration the training needs of judges and the state budget funds allocated for the training of judges, the Training Council shall approve the training program not later than by 1 October. The study and methodological materials necessary for the training of judges shall be prepared and the agreements with the trainers shall be entered into by the Supreme Court.

(3) The basis for the preparation of the strategy for training of judges and the training programs is the training needs of judges and the analysis of the training results. The training needs of judges shall be determined and the training results shall be analysed by the Supreme Court. The methodology for determining the training needs of judges and analysing the training results shall be developed by the Supreme Court and approved by the Training Council. The Training Council shall provide on the basis of the annual overview submitted by the Supreme Court an assessment of the training results of judges.

(4) The Supreme Court may, by a contract under public law, authorise another person or institution to partially or completely fulfil the duties imposed on the Supreme Court in this section if the Training Council has previously approved it.

(5) The Training Council shall annually determine a part of the training program, the completion of which is mandatory to judges.

(6) Judges participate in training on the basis of an annual training plan. The full court of a court shall approve the training plan for the court. Records of participation in training shall be kept concerning each judge in a court pursuant to the internal rules of the court. The chairman of a court shall monitor compliance with the training plan.

(7) The funds intended for the preparation of the training program of judges and organisation of training shall be allocated in the budget of the Supreme Court.

[RT I 2008, 20, 139 - entry into force 01.01.2009]

#### **§ 45. Supervisory control**

(1) Supervisory control over the administration of justice pursuant to the requirements, over the performance of duties by judges and over the forwarding of the data of the courts information system pursuant to the established procedure shall be exercised by the chairman of the court. The chairman of a court has the right to demand explanations from judges, inspect compliance with the operations procedure and collect other necessary

information. The manager of courthouse may, on the order of the chairman of a court of first instance or on his or her own initiative, demand explanations from judges of a courthouse and collect other necessary information to ensure the administration of justice in the court pursuant to the requirements. Chairmen of circuit courts shall also exercise supervisory control over judges of the courts of the first instance.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(1<sup>1</sup>) If a judge without a good reason fails to perform a necessary procedural act, inter alia fails to appoint a session in due time to ensure the conducting of court proceedings within a reasonable period of time, or if it is evident that the time planned by the judge for performing the procedural act or other organisation of proceedings does not ensure the conducting of proceedings within a reasonable period of time, a chairman of a court shall decide on the implementation of such measure organising the administration of justice, which presumably provides the opportunity to finalise the proceedings within a reasonable period of time. The chairman of the court may, inter alia:

- 1) establish a reasonable term for the judge to perform the procedural act or finalise the proceedings depending on the circumstances;
- 2) provide the judge with other organisational guidelines for conducting the proceedings and organising the work and working time;
- 3) redistribute the court cases among the judges taking account of the division of tasks plan;
- 4) in exceptional case, also deviate from the division of tasks plan in the distribution of work, primarily taking into account the peculiarities of the court case, the specialisation of the judge and different workload of the judges.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

(2) The Minister of Justice shall exercise supervisory control over the performance of the duties by the chairmen of courts of first instance and chairmen of courts of appeal. The Minister of Justice may demand explanations from the chairman of a court concerning the administration of justice in a court pursuant to the requirements.

(3) Supervisory control over the area of activity of land registry departments and registration departments shall be exercised by the directors of court and the Minister of Justice. The Minister of Justice shall exercise supervisory control over directors of court. The Minister of Justice has the right to demand explanations from the employees of the departments mentioned above and from the directors of court, to inspect compliance with the operations procedure and the budget and to collect other necessary information. The Minister of Justice shall establish the procedure for supervisory control.

[RT I 2008, 17, 118 - entry into force 01.06.2008]

#### **§ 46. Reporting of courts**

Courts of the first instance and courts of appeal shall submit a statistical report on cases to the Ministry of Justice. The Minister of Justice shall approve the standard format for reporting and the term for submission thereof.

## **Chapter 7 APPOINTMENT AS JUDGE**

#### **§ 47. Requirements for judges**

(1) A citizen of the Republic of Estonia may be appointed as a judge if he or she:

1) has acquired in the field of law at least an officially certified Master's degree, a corresponding qualification for the purposes of subsection 28 (2<sup>2</sup>) of the Republic of Estonia Education Act or a corresponding foreign qualification;

[RT I 2008, 29, 189 - entry into force 01.07.2008]

2) has proficiency of the Estonian language at the level C1 provided for by the Language Act or a corresponding level;

[RT I 2009, 4, 27 - entry into force 26.01.2009]

3) is of high moral character;

4) has the abilities and personal characteristics necessary for working as a judge.

(1<sup>1</sup>) [Repealed - RT I 2008, 29, 189 - entered into force 01.07.2008]

(2) The following shall not be appointed as a judge:

1) persons who are convicted of a criminal offence;

2) persons who have been removed from the office of judge, notary or bailiff;

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

3) persons who have been expelled from the Estonian Bar Association;

4) persons who have been released from the public service for a disciplinary offence;

5) persons who are bankrupt;

6) persons whose professional activities as an auditor have been terminated except termination on the basis of the application of an auditor;



7) persons who have been deprived of the qualification of a patent agent, except deprivation of qualification on the basis of the application of a patent agent.

8) who have been deprived of the profession of a sworn translator on the basis of clause 28 (3) 3) of the Sworn Translators Act.

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

#### **§ 48. Judge's age**

The maximum age of a judge is 67 years, unless otherwise provided for in this Act.

[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

#### **§ 49. Restrictions on holding office of judge**

(1) Judges shall not be employed other than in the office of judge, except for teaching or research. A judge shall notify of his or her employment other than in the office to the chairman of the court. Employment other than in the office of judge shall not damage the performance of official duties of a judge or the independence of a judge upon administration of justice.

(2) A judge shall not be:

- 1) a member of the Riigikogu or member of a rural municipality or city council;
- 2) a member of a political party;
- 3) a founder, managing partner, member of the management board or supervisory board of a company, or director of a branch of a foreign company;
- 4) a trustee in bankruptcy, member of a bankruptcy committee or compulsory administrator of immovable;
- 5) an arbitrator chosen by the parties to a dispute.

[RT I 2006, 48, 357 - entry into force 18.11.2006]

#### **§ 50. Judge of court of first instance**

(1) A person who has undergone judge's preparatory service or is exempted therefrom and has passed a judge's examination may be appointed as a judge of a county or city court, or administrative court (county judge, city judge or administrative court judge).

(2) A person who has worked as a sworn advocate or prosecutor, except an assistant prosecutor, for two years immediately prior to passing the judge's examination and a person who has worked as a judge earlier and if not more than ten years have passed since his or her release from the office of judge need not have undergone judge's preparatory service.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 51. Judge of circuit court**

A person who is an experienced and recognised lawyer and who has passed a judge's examination may be appointed as a judge of a circuit court (circuit court judge). A person who worked as a judge directly before appointment shall be exempted from the judge's examination.

#### **§ 52. Justice of Supreme Court**

A person who is an experienced and recognised lawyer may be appointed as a justice of the Supreme Court (Supreme Court justice).

#### **§ 53. Public competition**

(1) Judges shall be appointed to office on the basis of a public competition.

(2) The Minister of Justice shall announce a public competition for a vacant position of judge of a county court, administrative court and circuit court. The Chief Justice of the Supreme Court shall announce a public competition for a vacant position of justice of the Supreme Court.

(3) A competition for a vacant position of judge shall be announced in the official publication *Ametlikud Teadaanded*. An application shall be submitted to the Chief Justice of the Supreme Court within one month after the publication of the notice concerning the competition.

(4) If the vacant position of judge is filled pursuant to the procedure provided for in § 57 or § 58 of this Act, a competition shall not be announced.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 54. Assessment of suitability of personal characteristics**

(1) The suitability of the personal characteristics of a candidate for judicial office shall be assessed on the basis of an interview. The judge's examination committee may consider also other information concerning the candidate for judicial office which is important for the performance of the duties of a judge, make inquiries and ask for the opinion of the candidate's supervisor.

(2) A candidate for judicial office shall pass a security check before being appointed judge, excluding the case if he or she holds a valid access permit to access state secrets classified as top secret or if the time of becoming a candidate he or she occupies a position which provides the right by virtue of office to access all levels of state secrets.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(3) To pass the security check, a candidate for judicial office shall complete the form used to apply for an access permit to state secrets and sign the consent which permits the agency which performs security checks to obtain information concerning the person from natural and legal persons and state and local government agencies and bodies during the performance of the security check, and submit these through the judge's examination committee to the Security Police Board.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(4) The Security Police Board performs the security check of a candidate for judicial office pursuant to the procedure prescribed in the Security Authorities Act.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(5) The Security Police Board shall forward the data and opinion collected as a result of the security check to the judge's examination committee within three months as of the receipt of the documents specified in subsection (3) of this section.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(6) Relying on the data collected in the course of the security check, a candidate for judicial office may be appointed judge within nine months as of the time when the Security Police Board forwarded the information collected in the course of the security check to the judge's examination committee. A candidate for judicial office may be appointed judge later than the above term after passing a new security check.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(7) The judge's examination committee shall forward its decision and the documents specified in subsections (3) and (5) of this section to the Supreme Court *en banc* and notify the examinee of the decision.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

#### **§ 54<sup>1</sup>. Security check of candidate for Chief Justice of Supreme Court**

(1) A candidate for the Chief Justice of the Supreme Court shall pass a security check before being appointed the Chief Justice of the Supreme Court, excluding the case if he or she holds a valid access permit to access state secrets classified as top secret or if the time of becoming a candidate he or she occupies a position which provides the right by virtue of office to access all levels of state secrets.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(2) A person acquires the status of the candidate for the Chief Justice of the Supreme Court after the President of the Republic has proposed to the person to apply for the office and the person agrees to it in writing.

(3) The Security Police Board performs the security check of a candidate for the Chief Justice of the Supreme Court pursuant to the procedure prescribed in the Security Authorities Act.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(4) In order to pass the security check, the candidate for the Chief Justice of the Supreme Court shall submit a completed form for an applicant for a permit to access state secrets to the Security Police Board through the Office of the President of the Republic, and also written consent which permits the agency which performs security checks to obtain information concerning the person from natural and legal persons and state and local government agencies and bodies during the performance of the security check.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

(5) The Security Police Board shall, within three months as of receipt of the documents specified in subsection (4) of this section, present the information collected as a result of the security check to the President of the Republic and shall provide an opinion concerning the compliance of the candidate for the Chief Justice of the Supreme Court with the conditions for the issue of a permit for access to state secrets.

(6) In the cases where the authority of the Chief Justice of Supreme Court have terminated prematurely, the security check of the candidate for Chief Justice of Supreme Court shall be performed within one month after receipt of the documents specified in subsection (4) of this section. With the permission of the Security Committee of the Government of Republic, the term for performing the security check may be extended by one month if circumstances specified in clause 33 (24) 1) or 2) of the State Secrets and Classified Information of

Foreign States Act arise or if it is possible that circumstances specified in clause 30 (21) 3) or 4) of the State Secrets and Classified Information of Foreign States Act may arise within one month.  
[RT I 2007, 16, 77 - entry into force 01.01.2008]

(7) Relying on the data collected in the course of the security check, a candidate for the Chief Justice of the Supreme Court may be appointed to office within nine months as of the time when the agency which performed the security check forwarded the information collected in the course of the security check to President of the Republic. A candidate for the Chief Justice of the Supreme Court may be appointed to office later than the above term after passing a new security check.  
[RT I 2007, 16, 77 - entry into force 01.01.2008]

### **§ 55. Appointment as judge**

(1) Judges of a court of the first instance and judges of a court of appeal shall be appointed by the President of the Republic on the proposal of the Supreme Court *en banc*. The Supreme Court *en banc* shall first consider the opinion of the full court of the court for which the person runs as a candidate.

(2) If several persons run as candidates for the vacant position of judge, the Supreme Court *en banc* shall decide who to propose to the President of the Republic to be appointed to office as judge. The decision of the Supreme Court *en banc* shall be communicated to the candidate.

(3) A judge of a court of the first instance or a judge of the court of appeal appointed to office by the President of the Republic shall be appointed to court service by the Supreme Court *en banc*. Upon appointing a judge of a court of first instance to service the Supreme Court *en banc* shall also determine the courthouse which shall be the permanent place of service of the judge.

(4) Justices of the Supreme Court shall be appointed to office by the Riigikogu on the proposal of the Chief Justice of the Supreme Court. The Chief Justice of the Supreme Court shall first consider the opinion of the Supreme Court *en banc* and the Council for Administration of Courts concerning a candidate.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(5) Upon the appointment of a judge of a court of the first instance as a judge of a court of appeal, he or she shall be paid no compensation for unexpired unused annual holiday, and the calculation of the holiday shall be continued at the court of appeal.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

### **§ 56. Judge's oath of office**

(1) Upon appointment to office, a judge shall take the following oath:  
"I swear to remain faithful to the Republic of Estonia and its constitutional order. I swear to administer justice according to my conscience and in conformity with the Constitution of the Republic of Estonia and other Acts."

(2) The justices of the Supreme Court shall take the oath before the Riigikogu, and other judges shall take the oath before the President of the Republic.

(3) The text of the judge's oath of office shall be maintained in the personal file of the judge.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 57. Transfer of judges**

(1) The Supreme Court *en banc* may appoint a judge to office to another court of the same or a lower instance with the consent of the judge and on the proposal of the Minister of Justice. The Supreme Court *en banc* may appoint a judge of a court of first instance with his or her consent to permanent service in another courthouse of the same court.  
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(2) Within the same settlement, a chairman of a court in the interests of the organisation of administration of justice may appoint a judge to permanent office without his or her consent to another courthouse of the same court. The chairman of the court shall first consider the opinion of the full court.  
[RT I 2008, 59, 330 - entry into force 01.01.2009]

(3) Upon the transfer of a judge to another court of the same instance or a lower instance, excluding the transfer of a justice of the Supreme Court to a court of a lower instance, he or she shall be paid no compensation for unexpired unused annual holiday, and the calculation of the holiday shall be continued at a court where the judge was transferred.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

## **§ 58. Employment of judges in Supreme Court and Ministry of Justice**

(1) A judge may be transferred to the service of the Supreme Court or the Ministry of Justice at his or her request and with the consent of the chairman of the court. During service in the Supreme Court or the Ministry of Justice, the authority of the judge shall be suspended. He or she shall however retain the judge's salary and other guarantees during service in the Supreme Court or the Ministry of Justice.

(2) A judge may return to the same court to a vacant position of judge by giving at least one month's advance notice thereof to the chairman of the corresponding court.

(3) The Supreme Court *en banc* may appoint a judge who wishes to leave the service in the Supreme Court or the Ministry of Justice to another court of the same instance or a lower instance as a judge with his or her consent. If the salary paid to the judge would be lower in comparison with the salary which the judge would have received on returning to the same court to a vacant position of judge, he or she shall continue to receive higher salary for six months.

(4) If after leaving the service in the Supreme Court or the Ministry of Justice, a judge does not have the opportunity to return to his or her former position of judge, and he or she does not wish to be transferred to another court, the judge shall be released from office and shall receive compensation in an amount equal to his or her six months' salary. Compensation shall be calculated from the salary valid at the time of grant of the compensation in the position of judge in which the judge was last employed as a judge before taking up employment at the Ministry of Justice or the Supreme Court.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **§ 58<sup>1</sup>. Employment of judges in international court institutions and participation as experts in international civil missions**

(1) Upon election or appointment of a judge as a judge of an international court institution or participation as expert in international civil mission the authority and service relationship of the judge shall be suspended.

(1<sup>1</sup>) Participation of a judge as expert in an international civil mission shall be coordinated with a chairman of a court and in case of judges of the courts of the first instance and judges of courts of appeal also with the Minister of Justice. In case of participation of a judge in an international civil mission, the Participation in International Civil Missions Act shall apply unless this Act prescribes otherwise.

(2) A judge may return to the same court to a vacant position of judge by giving at least one month's advance notice thereof to the chairman of the corresponding court.

(3) The Supreme Court *en banc* may appoint a judge who leaves the service in an international court institution or returns from an international civil mission to another court of the same instance or a lower instance as a judge with his or her consent. If the salary paid to the judge would be lower in comparison with the salary which the judge would have received on returning to the same court to a vacant position of judge, he or she shall continue to receive higher salary for six months.

(4) If after leaving the service in an international court institution or returning from an international civil mission, a judge does not have the opportunity to return to his or her former position of judge, and he or she does not wish to be transferred to another court, the judge shall be released from office pursuant to clause 99 (1) 6) and shall receive compensation in an amount equal to his or her six months' salary. Compensation shall be calculated on the basis of the salary valid at the time of grant thereof in the position of judge in which the judge was last employed prior to assuming office in the international court institution or taking part in the international civil mission.

(5) The period of employment in the service in an international court institution or as an expert in an international civil mission shall be included in the period of employment as a judge.

[RT I, 04.03.2011, 1 - entry into force 01.04.2011]

## **§ 58<sup>2</sup>. Official travel of judge**

When sending a judge on official travel, § 44 of the Public Service Act shall apply insofar as this is not regulated by the provisions of this Act.

[RT I, 29.12.2012, 1 - entry into force 01.04.2013]

## **§ 59. Service record of judge**

(1) A service record shall be maintained with regard to a judge which sets out:

- 1) his or her name and personal identification code of the judge;
- 2) his or her date and place of birth;
- 3) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]
- 4) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]
- 5) information concerning his or her education in law and academic degree;
- 6) the date on which he or she takes the oath of office;

- 7) his or her career;
- 8) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]
- 9) decisions of the Disciplinary Chamber and the date of expiry of the punishment.  
[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(2) The Chief Justice of the Supreme Court shall organise the maintenance of service records of judges.

(3) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]

(4) At the request of a judge who is leaving the service, he or she shall be given a copy of his or her service record.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 60. Personal file of judge**

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(1) A personal file shall be maintained with regard to a judge which contains:

- 1) a copy of the document certifying education in law and an academic degree;
- 2) the decision of the judge's examination committee;
- 3) a copy of the identity card;
- 4) the decision of appointment as a judge;
- 5) decisions of the Disciplinary Chamber;
- 6) the decision of release or removal of judge from office.

(2) Other documents which reflect the professional activity of the judge may be added to the personal file.

(3) The Chief Justice of the Supreme Court shall organise the maintenance of the personal files of judges.

(4) [Repealed - RT I 2005, 71, 549 - entry into force 01.01.2006]

## **Chapter 8 PREPARATORY SERVICE FOR JUDGES**

#### **§ 61. Candidate for judicial office**

(1) A person who complies with the requirements set for judges may be appointed as a candidate for judicial office.

(2) The Minister of Justice shall announce a public competition for a position of a candidate for judicial office in the official publication *Ametlikud Teadaanded*. Applications shall be submitted to the Minister of Justice within one month after the publication of the notice concerning the competition.

(3) A candidate for judicial office is an official of a judicial institution who is appointed to office by the chairman of the court for the time of preparatory service on the proposal of judge's examination committee. The judge's examination committee shall assess the legal knowledge of the applicants beforehand and conduct an interview with the applicants.

(4) A candidate for judicial office shall undergo preparatory service.

(5) The amount of salary of a candidate for judicial office shall be established by the Minister of Justice.

(6) The Minister of Justice shall determine the number of candidates for judicial office.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 61<sup>1</sup>. Verification of reliability of candidate for judicial office**

(1) For the verification of the correctness of the data submitted by the candidate for judicial office, the chairman of the judge's examination committee or a member of the judge's examination committee appointed by him or her has the right to:

- 1) address local government agencies, officials of local governments, legal persons and natural persons by inquiries concerning the personal data of a candidate for judicial office;
- 2) interview the candidate for judicial office and employers, representatives of educational institutions and other persons in order to ascertain the moral character and other personal characteristics of the person and obtain a written explanation from the interviewed person with his or her permission.

(2) The agency or person who receives the inquiry specified in clause (1) 1) of this section shall immediately respond to the inquiry. An oral inquiry and the response thereto shall be recorded in writing by the person submitting the inquiry.

(3) A candidate for judicial office shall be notified of the verification with respect of him or her and enable to examine the materials gathered in the process of the checks.

(4) If a candidate for judicial office intentionally submits incorrect data to the examination committee or conceals material information he or she is excluded from the competition by resolution of the examination committee.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **§ 62. Preparatory service**

(1) During preparatory service, a candidate for judicial office shall be prepared for the office of judge.

(2) A candidate for judicial office shall undergo preparatory service in the judicial institution where the candidate for judicial office is appointed to office. A part of the preparatory service shall be carried out in other courts specified in the preparatory service plan of the candidate for judicial office so that the candidate for judicial office would have undergone preparatory service in a county court, an administrative court and a circuit court. A part of the preparatory service may also be carried out in the Supreme Court, the Prosecutor's Office or the Bar Association, or in an authority of executive power or a local government authority.

(3) For the period when the candidate for judicial office is undergoing preparatory service in another court, the chairman of the other court shall appoint a supervisor for the candidate for judicial office from among the judges of the respective court.

(4) The judge's examination committee shall approve the preparatory service plan of the candidate for judicial office.

(5) The duration of preparatory service shall be two years.

(6) Upon expiry of the term of preparatory service of a candidate for judicial office, the service relationship of a candidate for judicial office shall be terminated.

(7) If a candidate for judicial office does not pass a judge's examination during preparatory service, the preparatory service shall continue until the judge's examination is passed or the service relationship is terminated pursuant to subsection 67 (3) of this Act.

(8) If a candidate for judicial office passes a judge's examination during preparatory service but he or she is not appointed a judge the chairman of the court shall extend the preparatory service at his or her request until the appointment as a judge but not for longer than three years as of the judge's examination passed during preparatory service.

(9) Upon extension of preparatory service on the basis of subsections (7) and (8) of this section, a supervisory judge shall not be appointed for the candidate for judicial office.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(10) On the reasoned proposal of the judge's examination committee, the chairman of the court shall terminate the service relationship of the candidate for judicial office due to unsatisfactory results of preparatory service.

(11) On the bases provided for in the Public Service Act, the chairman of the court shall release the candidate for judicial office with the consent of the judge's examination committee. The chairman of the court shall notify the judge's examination committee and the Minister of Justice of termination of service relationship on the initiative of the candidate for judicial office.

(12) The chairman of the court shall impose a disciplinary punishment on a candidate for judicial office with the consent of the judge's examination committee.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **§ 63. Organisation of preparatory service**

(1) The chairman of the court shall, on the proposal of the judge's examination committee, appoint a judge who supervises the candidate for judicial office.

(2) The purpose of preparatory service is to provide a candidate for judicial office with the necessary knowledge and experience, and to determine whether the candidate for judicial office is suited for the position of judge by his or her personal characteristics. A candidate for judicial office shall be involved in the preparation of cases and he or she may perform the duties of a clerk of a court session and of a law clerk. In the event of extension of preparatory service on the basis of subsection 62 (7) of this Act, the candidate for judicial office may also perform the duties of the head of legal services.

(3) At the request of a candidate for judicial office, he or she shall be granted a study leave without loss of wages for thirty calendar days in order to prepare for the judge's examination.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 64. Exemption from preparatory service and reduction of term thereof**

(1) A person who is an experienced and recognised lawyer and with regard to whom the judge's examination committee finds without doubt that past experience enables the person to assume the office of judge without undergoing preparatory service may be exempted from preparatory service by a reasoned decision of the judge's examination committee.

(2) The judge's examination committee may reduce the preparatory service of a person by up to one year if the person has worked as an advocate or prosecutor, consultant of court, law clerk or judge for at least two years.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 65. Reporting and auditing on preparatory service of candidate for judicial office**

(1) A candidate for judicial office shall submit reports on preparatory service pursuant to the procedure established by the judge's examination committee.

(2) The judge's examination committee shall evaluate the course of preparatory service and provide guidelines for the better organisation thereof to the chairman of the court or the judge supervising the candidate for judicial office where necessary.

(3) Upon assessment of the results of preparatory service as unsatisfactory, the judge's examination committee shall make a proposal to the chairman of the court for termination of service relationship of the candidate for judicial office (subsection 62 (10)).  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 66. Judge's examination**

(1) A judge's examination shall consist of an oral and a written part.

(2) The oral part of a judge's examination means the assessment of the theoretical knowledge of a candidate for judicial office.

(3) The written part of a judge's examination means case analysis.

#### **§ 67. Taking of judge's examination**

(1) A candidate for judicial office shall take a judge's examination during preparatory service but not earlier than four months before the end of preparatory service. Persons who may be exempted from preparatory service pursuant to subsection 64 (1) of this Act may submit an application to this effect to the judge's examination committee. If a person is exempted from preparatory service, the judge's examination committee shall set a date for the examination.

(2) If a candidate for judicial office does not pass the examination during preparatory service, he or she shall take a re-examination. In such case, the preparatory service shall be extended until the re-examination but for not longer than six months.

(3) It is not allowed to re-take a re-examination. If a re-examination is not passed, the service relationship with a candidate for judicial office shall be terminated.

(4) The judge's examination committee shall determine the time and place of a judge's examination.

(5) If a person has not been appointed as a judge within five years after passing the judge's examination, he or she shall re-pass the examination in order to be appointed as a judge. He or she is not required to undergo preparatory service anew. He or she shall undergo preparatory service anew if more than ten years have passed since the end of preparatory service.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 68. Assessment of examination results**

(1) The results of the parts of a judge's examination shall be evaluated with grades from zero to ten. The oral and written part of the examination shall be evaluated separately.

(2) The grade of the examination committee is the arithmetical average of the grades given by the committee members which is rounded to a whole number.

(3) The examination is deemed to be passed if the average grade for the oral as well as the written part of the examination is not lower than five.

#### **§ 69. Judge's examination committee**

(1) The judge's examination committee shall have ten members and be formed for five years.

(2) The judge's examination committee shall be comprised of two judges of the court of first instance elected by the Court *en banc*, two circuit court judges, two justices of the Supreme Court, one jurist designated by the council of the Law Faculty of the University of Tartu, a representative of the Ministry of Justice designated by the Minister of Justice, a sworn advocate designated by the leadership of the Bar Association and a public prosecutor designated by the Chief Public Prosecutor.

(3) In order to hold the examination, the chairman of the judge's examination committee shall form a panel comprising of at least five members, three of whom shall be judges.

(4) The judge's examination committee shall approve the rules of procedure of the judge's examination committee.

(5) The Supreme Court shall organise the clerical support to the judge's examination committee.

## **Chapter 9 DUTIES OF JUDGES**

#### **§ 70. General duties**

(1) A judge shall perform his or her official duties in an impartial manner and without self-interest and shall comply with service interests also outside service.

(2) A judge shall behave impeccably in service and outside service and refrain from acts which may damage the reputation of court.

(3) Judges shall follow §§ 55 and 56, subsection 58 (1) and § 59 of the Public Service Act in the performance of his or her duties.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

#### **§ 71. Duty of confidentiality**

(1) A judge shall not disclose information which becomes known to him or her at a court session held *in camera*.

(2) A judge may disclose facts to which the duty of confidentiality applies in judicial proceedings or pre-trial procedure in criminal matters only with the permission of the Supreme Court *en banc*.

(3) In order to obtain the permission specified in subsection (2) of this section, the court or investigative agency conducting the proceeding or a judge bound by the duty of confidentiality may address the Supreme Court *en banc*.

(4) The duty of confidentiality applies for an unspecified term and remains in force also after termination of the service relationship.

#### **§ 72. Duty of confidentiality of deliberations**

(1) A judge shall not disclose discussions which take place at the time the decision is made.

(2) The duty of confidentiality of deliberations applies for an unspecified term and remains in force also after termination of the service relationship.

#### **§ 73. Duty to supervise**

Judges shall supervise candidates for judicial office, candidates for assistant judge and university student trainees in preparatory service. No judge is required to supervise more than two candidates for judicial office or for assistant judge or university student trainees at a time.

#### **§ 74. Professional development**

A judge is required to develop knowledge and skills of his or her speciality on a regular basis and to participate in training.

## **Chapter 10**



# SOCIAL GUARANTEES FOR JUDGES

## § 75. Judge's salary

A judge's salary is provided by the High-Ranking State Public Servants Salaries Act.  
[RT I 2010, 1, 2 - entry into force 01.07.2013 (entry into force amended RT I, 29.12.2012, 1)]

## § 76. Additional remuneration of judges

(1) A chairman of the court of the first instance or court of appeal shall receive additional remuneration for the performance of the duties of chairman of the court:

- 1) in the amount of 15 per cent of his or her salary if the number of judges in the court is fourteen;
- 2) in the amount of 25 per cent of his or her salary if the number of judges in the court is at least fifteen.

(2) The chairman of a chamber of the Supreme Court or a circuit court shall receive additional remuneration for the performance of the duties of chairman of the chamber in the amount of 15 per cent of his or her salary.

(3) The Minister of Justice may, on the proposal of the chairman of the court and with the consent of the Council for Administration of Courts, determine additional remuneration for a manager of courthouse in the amount of up to five per cent of the salary of a judge if there are three to ten judges in permanent service in the courthouse and in the amount of up to ten per cent if there are more than ten judges in permanent service in the courthouse.

(4) Judges supervising candidates for judicial office, candidates for assistant judge or university student trainees shall receive additional remuneration for supervision equal to 5 per cent of the salary for each supervised person during supervision.

[RT I 2010, 1, 2 - entry into force 01.07.2013 (entry into force amended RT I, 29.12.2012, 1)]

§ 77.–§ 82.[Repealed - RT I, 29.12.2012, 1 - entry into force 01.07.2013]

## § 83. Allowance upon death of judge

If a judge is killed as a result of a criminal attack while he or she is performing his or her duties of service, the family members of the judge who were maintained by him or her shall be paid a one-time benefit to the extent of five years' salary of the deceased judge.

## § 84. Judge's holiday

(1) Judges have the right to receive an annual holiday.

(2) A judge's holiday is 35 calendar days.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(3) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(4) The chairman of the court shall approve the holiday schedule of judges.

(5) An extraordinary holiday for up to one year without pay may be granted to a judge by the Chief Justice of the Supreme Court with the consent of the full court of the court where the judge is employed.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

(6) Subsections 43 (1), (3) and (4) and § 48 of the Public Service Act shall apply in the part not regulated by this section.

[RT I, 29.12.2012, 1 - entry into force 01.04.2013]

## § 85. Official attire of judge

(1) Judges shall wear robes as official attire at court sessions.

(2) The state shall give the robes to judges without charge.

(3) The Minister of Justice shall approve the description of the robes.

## § 86. Other social guarantees

(1) A judge who is released from office due to liquidation of the court or closure of a courthouse or reduction of the number of judges shall be paid the six months' salary of his or her last position.

(2) The chairman of a court who after being released from the position of the chairman of the court resumes work as a judge and the manager of courthouse who after being released from the duties of the manager of the courthouse resumes work as a judge shall not be paid compensation.

(3) If a judge of a higher court is appointed, due to liquidation of the court or reduction of the number of judges, as a judge of a lower court with his or her consent, he or she shall retain the salary of the previous position together with additional remuneration during one year.

(4) The consent of the Council for Administration of Courts is required for conscription of a judge into active service in the defence forces.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

## **Chapter 11**

# **DISCIPLINARY LIABILITY OF JUDGES**

### **§ 87. Bases for imposing disciplinary punishment**

(1) A disciplinary punishment may be imposed on a judge for a disciplinary offence.

(2) A disciplinary offence is a wrongful act of a judge which consists of failure to perform or inappropriate performance of official duties. An indecent act of a judge is also a disciplinary offence.

### **§ 88. Disciplinary punishments**

(1) The following are disciplinary punishments:

- 1) a reprimand;
- 2) a fine in an amount of up to one month's salary;
- 3) a reduction in salary;
- 4) removal from office.

(2) If a retired judge does not comply with the duty of confidentiality or the duty of confidentiality of deliberations, his or her judge's pension may be reduced by not more than 25 per cent as a disciplinary punishment. The pension shall not be reduced for longer than one year.

(3) Only one disciplinary punishment may be imposed on a judge for one and the same offence. A criminal punishment or a punishment for a misdemeanour imposed for the same act does not preclude the imposition of disciplinary punishment.

(4) Upon imposition of disciplinary punishment, the nature, gravity and consequences of the disciplinary offence, also the personal characteristics of the judge and other circumstances related to the offence shall be considered.

(5) A disciplinary punishment imposed on a judge shall be entered on his or her service record.

(6) A disciplinary sanction shall expire if the judge does not commit a new disciplinary offence within one year after the entry into force of the decision of the Disciplinary Chamber. The Disciplinary Chamber may also cancel a disciplinary punishment before the prescribed time.

### **§ 89. Reduction of salary**

As a disciplinary punishment, a judge's salary may be reduced by not more than 30 per cent. The salary shall not be reduced for longer than one year.

### **§ 90. Expiry of disciplinary offence**

(1) Disciplinary proceedings shall not be commenced if more than one year has passed from the commission of the disciplinary offence or more than six months have passed from the discovery thereof.

(2) The term provided for in subsection (1) of this section shall be suspended:

- 1) until the termination of the criminal proceedings commenced against an act of a judge;
- 2) during the time that the judge is temporarily incapacitated for work and during the holidays of the judge.

### **§ 91. Commencement of disciplinary proceedings**

(1) Disciplinary proceedings shall be commenced if elements of a disciplinary offence become evident. Disciplinary proceedings are commenced by preparation of disciplinary charges.

(2) The following have the right to commence disciplinary proceedings:

- 1) the Chief Justice of the Supreme Court, against all judges;
- 2) the Chancellor of Justice, against all judges;

- 3) the chairman of a circuit court, against judges of courts of first instance in his territorial jurisdiction.
- 4) the chairman of a court, against the judges of the same court;
- 5) the Supreme Court *en banc* against the Chief Justice of the Supreme Court.

(3) A person who commences a disciplinary proceeding may gather evidence and demand explanations which are necessary to adjudicate the disciplinary matter.

#### **§ 92. Disciplinary charge**

(1) A disciplinary charge is a written document, which sets out:

- 1) the name and position of the accused;
- 2) the description and time of commission of the offence;
- 3) the evidence proving commission of the offence;
- 4) the name of the person who commences a disciplinary proceeding, and the date and place of the preparation of the charge.

(2) The person who commences a disciplinary procedure shall forward the disciplinary charges and the related material to the Disciplinary Chamber, which shall immediately notify the judge against whom the disciplinary proceeding is commenced thereof.

(3) A judge against whom a disciplinary proceeding is commenced shall be served the disciplinary charges at least ten days before the session of the Disciplinary Chamber. The judge or his or her representative has the right to examine the materials of the disciplinary charge.

#### **§ 93. Disciplinary Chamber**

(1) For the adjudication of disciplinary matters of judges, the Supreme Court shall comprise the Disciplinary Chamber which is comprised of five justices of the Supreme Court, five circuit court judges and five judges of courts of the first instance.

(2) The Supreme Court *en banc* shall appoint, for the term of three years, the chairman of the Disciplinary Chamber and other members of the Disciplinary Chamber who are justices of the Supreme Court.

(3) The internal rules of the Supreme Court shall prescribe the procedure for the substitution of members of the Disciplinary Chamber who are justices of the Supreme Court.

(4) Pursuant to the internal rules, the Supreme Court shall involve judges of courts of the first instance and judges of courts of appeal elected on the basis of clause 38 (3) 4) of this Act in the adjudication of disciplinary matters.

(5) For the adjudication of a disciplinary matter of a judge, the chairman of the Disciplinary Chamber shall form a five-member panel consisting of three members of the Disciplinary Chamber who are justices of the Supreme Court, one judge of a circuit court and one judge of a court of first instance.

#### **§ 94. Hearing of disciplinary matter**

(1) The Disciplinary Chamber of the Supreme Court shall hear matters of disciplinary offences of judges and impose disciplinary punishments to judges.

(2) A five-member panel of the Disciplinary Chamber shall hear a disciplinary matter at a court session.

(3) Upon hearing of a disciplinary matter, the chairman of the Disciplinary Chamber is the presiding judge. If the chairman of the Disciplinary Chamber does not participate in the hearing of a matter, he or she shall appoint a member of the Chamber as the presiding judge.

#### **§ 95. Temporary removal from service**

(1) The Disciplinary Chamber may remove a judge from service during the hearing of a disciplinary matter by a ruling of which the Chamber shall immediately notify the judge and the chairman of the court. Upon deciding the removal from service, the Chamber shall consider the nature and gravity of the disciplinary offence of which a judge is accused.

(2) If circumstances related to a judge exist which significantly damage the reputation of the court, the Disciplinary Chamber may remove the judge from service until the commencement of disciplinary proceedings is decided. If it is established that no basis exists for the commencement of disciplinary proceedings against the judge, the judge may resume service on a decision of the Disciplinary Chamber.

(3) The Disciplinary Chamber may decide the removal of a judge from service without holding a court session.

(4) If the Disciplinary Chamber removes a judge from service during the hearing of a disciplinary matter, the Chamber may reduce the judge's salary for such period. The salary shall be reduced by not more than a half.

(5) The chairman of the court may assign duties other than the administration of justice to a judge who is temporarily removed from service.

(6) A judge may file an appeal to the Supreme Court *en banc* against a ruling by which the judge is temporarily removed from service or his or her salary is reduced within ten days after the judge becomes aware of the ruling. [RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 96. Session of Disciplinary Chamber**

(1) The judge whose disciplinary offence is heard shall be summoned to the session of the Disciplinary Chamber. The judge may have a representative. If necessary, witnesses and other persons may be summoned to the session.

(2) At the session of the Disciplinary Chamber, the presiding judge shall make a report on the offence in which he or she introduces the disciplinary charge.

(3) The judge, against whom the disciplinary charge is brought, shall give statements with regard to the matter, and the statements from witnesses and other persons present at the session shall be heard. Members of the Disciplinary Chamber may question the judge against whom the charge is brought, the witnesses and other persons summoned to the session.

(4) After examination of the evidence, the judge whose disciplinary matter is heard has the right to express his or her opinion with regard to the matter.

(5) Minutes shall be taken of sessions of the Disciplinary Chamber.

#### **§ 97. Decisions of Disciplinary Chamber**

(1) If the culpability of a judge is proved, the Disciplinary Chamber shall make a decision by which the judge is convicted of the commission of a disciplinary offence and a disciplinary punishment is imposed on the judge.

(2) If the judge has not committed a disciplinary offence, the Disciplinary Chamber shall make a decision by which the judge is acquitted of the disciplinary charge.

(3) A judge on whom a disciplinary punishment is imposed may file an appeal to the Supreme Court *en banc* within thirty days after the decision is pronounced.

(3<sup>1</sup>) The Supreme Court *en banc* may perform the following with regard to a decision of the Disciplinary Chamber:

- 1) refuse amendment;
- 2) amend and convict the judge of the commission of a less serious disciplinary offence and mitigate the disciplinary sanction imposed;
- 3) refuse to make substantive amendments and mitigate the disciplinary sanction imposed;
- 4) annul the decision and acquit the judge.

(4) If the judge has not filed an appeal to the Supreme Court *en banc*, the decision of the Disciplinary Chamber shall enter into force after the expiry of the term specified in subsection (3) of this section. A decision of the Disciplinary Chamber appealed to the Supreme Court *en banc* shall enter into force as a decision of the Supreme Court *en banc* upon pronouncement thereof. [RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 98. Reimbursement of reduced portion of salary**

(1) If a judge is acquitted of a disciplinary charge, the reduced portion of salary related to the temporary removal from service and the interest provided by law shall be paid to the judge.

(2) If the Disciplinary Chamber convicts a judge of the commission of a disciplinary offence which is considerably less serious than the act against which charge was brought against the judge and for which he or she was temporarily removed from service, the Chamber may decide that the reduced portion of salary shall be reimbursed to the judge in part or in full.

(3) On the bases specified in subsections (1) and (2) of this section, the reduced portion of salary shall be paid to the judge within one month after termination of the disciplinary proceedings or entry into force of the decision of the Disciplinary Chamber.

## **Chapter 12**

# RELEASE AND REMOVAL OF JUDGES FROM OFFICE

## § 99. Release of judges from office

(1) A judge shall be released from office:

- 1) at the request of the judge;
- 2) due to age;

[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

- 3) due to unsuitability for office – within three years after appointment to office;
- 4) due to health reasons which hinders work as a judge;
- 5) upon liquidation of the court or reduction of the number of judges;

6) if after leaving the service in the Supreme Court, the Ministry of Justice, an international court institution or after returning from an international civil mission, a judge does not have the opportunity to return to his or her former position of judge, and he or she does not wish to be transferred to another court.

[RT I, 04.03.2011, 1 - entry into force 01.04.2011]

7) if a judge is appointed or elected to the position or office which is not in accordance with the restrictions on services of judges;

8) if facts become evident which according to law preclude the appointment of the person as a judge.

(1<sup>1</sup>) A judge shall not be released from office on the basis of clauses (1) 1) and 3) of this section at the time of disciplinary proceedings conducted against him or her.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(1<sup>2</sup>) The service relationship of a judge shall terminate upon his or her death.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(2) Judges of a court of the first instance and judges of a court of appeal shall be released from office by the President of the Republic, on the proposal of the Chief Justice of the Supreme Court.

(3) The Chief justice of the Supreme Court shall be released from office by the Riigikogu on the proposal of the President of the Republic except in the case provided in subsection 27 (6) of this Act. The other justices of the Supreme Court shall be released from office by the Riigikogu on the proposal of the Chief Justice of the Supreme Court.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

## § 99<sup>1</sup>. Release from office due to age

(1) A judge shall be released from office if the judge has attained 68 years of age, unless the maximum age of the judge is increased pursuant to the procedure provided for in subsections (2) and (3) of this section.

(2) The Supreme Court *en banc* may, upon the consent of the Council for Administration of Courts and the judge and on the proposal of the chairman of the court, in exceptional case increase the maximum age of the judge of a court of the first instance and of a court of appeal up to two years at a time.

(3) The maximum age of the judge may be increased in case of substantial public interest from the point of view of administration of justice.

(4) The increase of the maximum age applies exclusively to the judge whose maximum age was increased.

(5) In case of increasing the maximum age of a judge, the judge shall be released from office after the judge has attained the increased maximum age.

[RT I, 29.06.2012, 3 - entry into force 01.07.2012]

## § 100. Release from office due to unsuitability

(1) A person may be released from the office of judge due to unsuitability for office only within three years after appointment to office if the judge has been declared unsuitable for office by a decision of the Supreme Court *en banc*.

(2) Once a year, chairmen of courts shall submit their opinion concerning judges of less than three years length of service employed in the corresponding courts to the judge's examination committee. The standard format for submission of opinion shall be established by the judge's examination committee.

(3) Upon assessment of suitability for the office of judge, the Supreme Court *en banc* shall consider the proposal of a person or body entitled to commence disciplinary proceedings, the opinion of the judge's examination committee and other information characterising the work of the judge.

(4) The judge's examination committee shall hold a session where the judge whose suitability is assessed is heard.

(5) At least ten days before the suitability of a judge is discussed at a session of the Supreme Court *en banc*, a reasoned proposal of a person or body entitled to commence disciplinary proceedings to release the judge from office and the opinion of the judge's examination committee shall be presented to the judge whose suitability for office is assessed, and he or she is allowed to examine the gathered materials.

#### **§ 101. Removal of judges from office**

A judge in respect of whom a conviction by a court for a criminal offence or a decision of the Disciplinary Chamber of the Supreme Court to remove the judge from office has entered into force, is deemed to be removed from office as of the date on which the conviction or decision enters into force.

## **Chapter 13 LAY JUDGES**

#### **§ 102. Participation of lay judges in administration of justice**

(1) Lay judges shall participate in the administration of justice in county courts on the bases and pursuant to the procedure provided by the Codes of procedure.

(2) In administration of justice, a lay judge has equal rights with a judge.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 103. Requirements for lay judges**

(1) An Estonian citizen with active legal capacity from 25 to 70 years of age who resides in Estonia, has proficiency of the Estonian language at the level C1 provided for by the Language Act or a corresponding level, and is of suitable moral character for the activity of a lay judge may be appointed as a lay judge.  
[RT I 2009, 4, 27 - entry into force 26.01.2009]

(2) The following shall not be appointed as a lay judge:

- 1) a person who is convicted of a criminal offence;
- 2) a bankrupt;
- 3) a person who is not suited due to his or her state of health;
- 4) a person who has permanent residence, that is the residence the address details of which have been entered in the population register, of less than one year within the territory of the local government which presents the person as a candidate for lay judge;
- 5) a person who is in service in a court, prosecutor's office or the police;
- 6) a person who is in service in the armed forces;
- 7) an advocate, a notary or a bailiff;
- 8) a member of the Government of the Republic;
- 9) a member of a rural municipality or city government;
- 10) the President of the Republic;
- 11) a member of the Riigikogu;
- 12) a county governor.

(3) A person who is accused of a criminal offence shall not be appointed as a lay judge during the criminal proceedings.

#### **§ 104. Term of authority of lay judge**

(1) Lay judges shall be appointed for four years.

(2) A person shall not be appointed as lay judge for more than two consecutive terms.

(3) The chairman of a county court shall notify the local government council of the termination of the term of the authority of a lay judge for at least four months before the termination of the authority.

(4) If the authority of a lay judge terminates during a judicial proceeding, he or she shall continue the performance his or her duties until the adjudication of the matter in the court.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 105. Premature termination of authority of lay judge**

(1) The authority of a lay judge shall be terminated if a fact specified in subsection 103 (2) of this Act becomes evident. The authority of a lay judge may be terminated on the basis of his or her request with good reason.

(2) The committee specified in § 108 of this Act shall decide the premature termination of authority of a lay judge on the proposal of the chairman of a county court.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 106. Procedure for election of candidate for lay judge**

(1) Each member of a local government council may present candidates for lay judge.

(2) A local government council shall elect the candidates for lay judge.

(3) The chairman of a county court shall determine how many candidates for lay judge each local government council within the territorial jurisdiction of the court shall present. The number of candidates for lay judge shall be proportional to the ratio of the number of residents in the territory of the local government and the number of residents in the territorial jurisdiction of the court.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 107. List of candidates for lay judge**

(1) A local government council shall submit a list of candidates for lay judges to a county court at least two months before termination of the authority of lay judges. The list shall set out the name, personal identification code, address, place of employment and position or area of activity of a candidate for lay judge.

(2) The list of candidates for lay judge shall be published in the official publication *Ametlikud Teadaanded* at least two months before termination of the authority of lay judges appointed earlier. A local government council shall submit the list for publication.

(3) The name, place of employment, and position or area of activity of a candidate for lay judge shall be published.

(4) Everyone has the right to contest the appointment of a candidate for lay judge as a lay judge in the committee for appointment of lay judges of a county court.

(5) A notice concerning the right and procedure for contestation shall be published together with the list of candidates for lay judge in the official publication *Ametlikud Teadaanded*.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

#### **§ 108. Appointment of lay judges**

(1) Lay judges shall be appointed to office from among candidates for lay judges by the committee for appointment of candidates for lay judge, the membership of which shall be approved by the chairman of the court.

(2) The committee for appointment of lay judges shall comprise the chairman of the county court, a judge elected by the full court and the manager of each courthouse of the territorial jurisdiction of the county court or a representative appointed by the manager of the courthouse from among the judges of the courthouse. The chairman of the court shall be the chairman of the committee.  
[RT I 2006, 55, 411 - entry into force 23.12.2006]

(3) The committee has a quorum if over one-half of the committee members are present, including the chairman of the committee. The committee shall make a decision by a majority of votes of the members who are present. The chairman of the committee shall have the deciding vote upon an equal division of votes.  
[RT I 2006, 55, 411 - entry into force 23.12.2006]

(4) The committee shall appoint as lay judges a specified number of persons determined for such court from among the candidates for lay judges.

(5) Upon appointment of lay judges, the committee shall consider the suitability of a candidate, the reasoned objections filed against a candidate, and follow the principle that lay judges shall be persons of different sex and age, from different social groups and operating in different areas of activity.

#### **§ 109. Lay judge's oath of office**

A lay judge shall take the following oath before the full court:

"I swear to remain faithful to the Republic of Estonia and its constitutional order. I swear to administer justice according to my conscience and in conformity with the Constitution of the Republic of Estonia and other Acts."

### **§ 110. Participation of lay judges in administration of justice**

- (1) Lay judges shall be involved in courts to participate in the administration of justice such that lay judges participate in the administration of justice equally to the extent possible.
- (2) If a lay judge cannot participate in a court session, another lay judge shall be involved in the session.

### **§ 111. Duties of lay judges**

- (1) A lay judge involved in the administration of justice is required to appear at the court session.
- (2) If a lay judge cannot participate in the court session with good reason, he or she shall immediately notify the court thereof.
- (3) The duties listed in §§ 70–72 of this Act apply to lay judges.
- (4) Criminal charges may be brought against a lay judge during his or her term of office only with the consent of the chairman of the county court of his or her territorial jurisdiction.  
[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 112. Payment of remuneration to lay judges**

- (1) The amount of remuneration paid to lay judges and payment procedure shall be established by a regulation of the Minister of Justice. The Minister of Justice shall not reduce the amount of remuneration of lay judges established by the regulation.  
[RT I 2006, 55, 411 - entry into force 23.12.2006]
- (2) The expenses related to participation in the administration of justice shall be reimbursed to lay judges.
- (3) An employer shall exempt a lay judge from work for the time of his or her participation in the administration of justice.
- (4) [Repealed - RT I 2006, 55, 411 - entry into force 23.12.2006]

### **§ 113. Pension of lay judges**

- (1) If a person becomes disabled during the performance of the duties of a lay judge as a result of a criminal attack, his or her state disability pension shall be increased by 20 per cent in the case of a 100 per cent loss of capacity for work, by 15 per cent in the case of a 80 or 90 per cent loss of capacity for work and by 10 per cent in the case of a 40–70 per cent loss of capacity for work.
- (2) If a person is killed in the performance of the duties of a lay judge as a result of a criminal attack against him or her, the state survivor's pension paid to each family member who is incapacitated for work and was maintained by the lay judge shall be increased by 20 per cent.
- (3) The portion of a lay judge's pension which exceeds state pension or is not covered by state pension shall be paid from additional state budget funds.

## **Chapter 14 ASSISTANT JUDGES**

### **§ 114. Legal status of assistant judges**

- (1) An assistant judge is a court official who performs the duties specified by law.
- (2) Upon performance of his or her duties, an assistant judge is independent but shall comply with the instructions of a judge to the extent prescribed by law.
- (3) The cases adjudicated by assistant judges shall be determined, within a court, by the chairman of the court before the approval of the division of tasks plan of judges by the full court.  
[RT I 2008, 59, 330 - entry into force 01.01.2009]

### **§ 115. Requirements for assistant judges**

- (1) A person who complies with the requirements set out in clauses 47 (1) 1–3) and subsection 47 (1<sup>1</sup>) of this Act and has undergone assistant judge's preparatory service and passed an assistant judge's examination may be appointed as an assistant judge.



(2) A person who has not undergone assistant judge's preparatory service, but who has undergone judge's preparatory service or is exempted therefrom and has passed an assistant judge's or judge's examination may also be appointed as an assistant judge.

(3) The person specified in subsection 47 (2) of this Act and the person released from the judge's office on the basis of clause 99 (1) 3) of this Act may not be appointed as an assistant judge.  
[RT I 2007, 67, 413 - entry into force 28.12.2007]

#### **§ 116. Restrictions on services of assistant judges**

The restrictions on services of judges apply to assistant judges.

#### **§ 116<sup>1</sup>. Competition of candidates for assistant judge**

The procedure and conditions for the competition of candidates for assistant judge shall be established by the Minister of Justice.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 117. Preparatory service of candidates for assistant judge**

(1) The preparatory service plan of a candidate for assistant judge shall be approved by the Minister of Justice who shall designate the place of service and supervisor of the candidate for assistant judge.

(2) In preparatory service, a candidate for assistant judge shall receive training for the office of assistant judge. Preparatory service shall ascertain whether a candidate for assistant judge is suited to be an assistant judge by his or her personal characteristics.

(3) A candidate for assistant judge shall undergo training in the court of first instance where the assistant judge or judge supervising the candidate for assistant judge works.

(3<sup>1</sup>) On the proposal of the supervisor, the chairman of the court may assign registry matters within the competence of an assistant judge for adjudication to a candidate for assistant judge who has been in preparatory service for at least three months.

[RT I 2007, 67, 413 - entry into force 28.12.2007]

(4) Assistant judge's training shall continue for one year and terminate with an assistant judge's examination. If a candidate for assistant judge does not pass the assistant judge's examination during this period, training shall continue until passing a re-examination. It is not allowed to re-take a re-examination. If a re-examination is not passed, the service relationship of a candidate for assistant judge shall terminate.

(5) A candidate for assistant judge shall continue in preparatory service after passing the judge's examination until appointment to office but not for longer than one year.

(6) The salary of a candidate for assistant judge shall be established by the Minister of Justice.

#### **§ 117<sup>1</sup>. Verification of reliability of candidate for assistant judge**

(1) A candidate for assistant judge shall submit to the competition committee information concerning him or her the composition of which shall be established by the Minister of Justice.

(2) For the verification of the correctness of the data submitted by the candidate for assistant judge, the Minister of Justice has the right, through officials authorised by him or her, to:

- 1) address local government agencies, officials of local governments, legal persons and natural persons by inquiries concerning the personal data of a candidate for assistant judge;
- 2) interview the person indicated in the form concerning personal data, and with employers, representatives of educational institutions and other persons in order to ascertain the moral character and other personal characteristics of the person and if necessary, obtain a written explanation from the interviewed person with his or her permission.

(3) The agency or person who receives the inquiry specified in clause (2) 1) of this section shall immediately respond to the inquiry.

(4) A candidate for assistant judge shall be notified of the verification with respect of him or her and enable to examine the materials gathered in the process of the checks.

(5) If a candidate for assistant judge intentionally submits incorrect data to the competition committee or conceals material information he or she is excluded from the competition by a resolution of the competition committee.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 118. Report of candidates for assistant judge**

(1) A candidate for assistant judge shall submit to the Minister of Justice a written semi-annual report on preparatory service and an annual report at the end of preparatory service.

(2) The supervisor of a candidate for assistant judge shall submit a written opinion on the results of preparatory service of the candidate for assistant judge to the Minister of Justice at the end of preparatory service.

(3) The Minister of Justice shall submit, together with his or her position, the report of a candidate for assistant judge and the opinion of his or her supervisor to the assistant judge's examination committee.

#### **§ 119. Assistant judge's examination committee**

(1) The assistant judge's examination committee shall be formed for a term of five years and shall consist of seven members.

(2) The assistant judge's examination committee shall be comprised of two judges of a court of the first instance and one judge of a circuit court elected by the Court *en banc*, two assistant judges and one representative of the Ministry of Justice designated by the Minister of Justice and a notary designated by the Chamber of Notaries.

(3) The assistant judge's examination committee has a quorum if at least five members are present.

(4) The Minister of Justice shall approve the rules of procedure of the assistant judge's examination committee.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 120. Running as candidate for position of assistant judge**

(1) Assistant judges shall be appointed to office by way of a public competition.

(2) The Minister of Justice shall announce a public competition for a vacant position of an assistant judge in the official publication *Ametlikud Teadaanded*.

(3) Persons who comply with the requirements established for assistant judges may run as candidates for the position of assistant judge.

(4) The assistant judge's examination committee shall select candidates from among the persons who passed the assistant judge's examination and make a proposal to the Minister of Justice to appoint such candidates to office as assistant judges.

(5) Assistant judges shall be appointed to office by the Minister of Justice on the proposal of the assistant judge's examination committee.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 121. Assistant judge's oath of office**

Upon assuming office, an assistant judge shall take the following oath before the Minister of Justice:  
"I swear to remain faithful to the Republic of Estonia and its constitutional order. I swear to perform my functions according to my conscience and in conformity with the Constitution of the Republic of Estonia and other Acts."

#### **§ 122. Assistant judge's salary and additional remuneration**

(1) The amount of the salary of an assistant judge shall be established by the Government of the Republic.

(2) An assistant judge and judge supervising a candidate for assistant judge shall receive additional remuneration equal to 5 per cent of the salary for a supervised person during supervision.

(3) The head of the land registry, registration or payment orders department of a county court shall receive additional remuneration equal to up to 35 per cent of the salary of an assistant judge pursuant to the procedure established by the Government of the Republic for the performance of the duties related to heading the department.

[RT I 2009, 67, 460 - entry into force 01.01.2010]

(4) [Repealed - RT I, 06.07.2012, 1 - entry into force 01.04.2013]

### **§ 123. Social guarantees for assistant judges**

If an assistant judge is released from service due to lay-off, he or she shall be paid six months' salary of assistant judge as compensation.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 124. Employment of assistant judges in Ministry of Justice and institutions of higher education**

An assistant judge may be transferred to the service of the Ministry of Justice or be employed as a lecturer of an institution of applied higher education which provides special education for assistant judges at the request of the assistant judge and with the consent of the chairman of the court. The provisions of § 58 of this Act apply otherwise.

## **Chapter 15 COURT OFFICERS**

### **§ 125. Director of court**

(1) The director of court shall:

- 1) organise the administrating of affairs of the judicial institution;
- 2) organise the use of the assets of the judicial institution;
- 3) prepare, with the approval of the chairman of the court, the draft budget of the judicial institution and submit the draft budget to the Minister of Justice;
- 4) control the budgetary funds of the judicial institution;
- 5) be responsible for the organisation of accounting of the judicial institution;
- 6) appoint court officers to office and release them from office;
- 7) perform other duties assigned to him or her by the internal rules of the court and the court office.

(2) The Minister of Justice may give directives to organise issues within the area of activity of directors of court.

(3) A director of court must have completed higher education. Directors of court of courts of the first instance and courts of appeal shall be appointed to office for five years by the Minister of Justice. A director of court shall be appointed to office on the basis of a public competition, section 117<sup>1</sup> shall apply upon verification of the reliability of applicants.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

(4) The Minister of Justice may decide that several judicial institutions have one director of court.  
[RT I 2005, 71, 549 - entry into force 01.01.2006]

(5) The basic salary and variable salary of directors of court of courts of the first instance and courts of appeal shall be determined in the salary guide established by the Minister of Justice on the basis of subsection 63 (2) of the Public Service Act.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

### **§ 125<sup>1</sup>. Judicial clerk**

(1) A judicial clerk is a court official who participates in the preparation for proceeding and in proceeding of cases to the extent prescribed in the court procedure law either independently or under the supervision of a judge.

(2) A judicial clerk is also competent to perform the acts and make the judgements, which an assistant judge or another court official is competent to perform or make pursuant to the court procedure law.

[RT I, 06.02.2014, 13 - entry into force 04.02.2014 - The decision of the Supreme Court en banc declares subsection 125<sup>1</sup> (2) of the Courts Act and subsection 174 (8) of the Code of Civil Procedure in the part pursuant to which the procedure expenses in a civil proceeding may be determined by a judicial clerk to be in conflict with the Constitution and repealed.]

(3) Upon performance of his or her duties, a judicial clerk is independent but shall comply with the instructions of a judge to the extent prescribed by law.

(4) A person who complies with the requirements set out in clauses 47 (1) 1)–3) of this Act may be appointed as a judicial clerk. A person who, pursuant to the Public Service Act, cannot be employed in the service as an official shall not be appointed as a judicial clerk.

(5) A vacant position of a judicial clerk shall be filled by way of public competition. The competition shall be organised and a judicial clerk shall be appointed to office and released from office by the chairman of the court. A probationary period with the duration of up to six months shall be applied upon appointment to office of a judicial clerk.

(6) The salary of a judicial clerk shall not exceed the salary of a judge of a court of first instance and following the probationary period it shall not be smaller than one-half of the salary of a judge of a court of first instance. [RT I, 29.12.2012, 2 - entry into force 01.01.2013]

#### **§ 126. Court security guards**

(1) A court security guard is a court official whose duty is to maintain order in the court, serve notices and summons to persons and perform other duties related to the functions of a court security guard determined by the internal rules of the court. Court security guards shall have the same rights as assistant police officers pursuant to §§ 12, 18–20, 22, 23, 25, 26 and Division 2 of Chapter 4 of the Assistant Police Officer Act, and the Minister of Justice may, by a regulation, establish the procedure for issuing of weapons and special equipment to court security guards, return of weapons and special equipment and carrying of weapons. [RT I, 20.12.2010, 1 - entry into force 01.01.2011]

(2) Additional remuneration shall be paid to court security guards for serving summons and notices. The Minister of Justice shall establish the rates of additional remuneration.

(3) Court security guards shall be reimbursed for expenses incurred for the use of public transportation related to the performance of duties.

(4) On the basis of an administration contract, the performance of the duties specified in subsection (1) of this section may be transferred to a company.

#### **§ 127. Other court officers**

The duties of court officials and court employees not specified in this Chapter shall be determined in the internal rules of a court. [RT I, 06.07.2012, 1 - entry into force 01.04.2013]

#### **§ 127<sup>1</sup>. Official attire of court officer**

The Minister of Justice may establish the description of and the procedure for wearing of the attire of court officers. If wearing the attire is obligatory the attire shall be given to the court officer free of charge. [RT I 2005, 71, 549 - entry into force 01.01.2006]

## **Chapter 16 IMPLEMENTING PROVISIONS**

#### **§ 128. Entry into force of Act**

(1) This Act enters into force on the tenth day following the date of publication of this Act in Riigi Teataja.

(2) Subsections 61 (5), 76 (1) and (5) and §§ 122, 134 and 146 of this Act shall be implemented as of 1 July 2002.

#### **§ 129. Formation of Constitutional Review Chamber of Supreme Court**

Pursuant to this Act, the Constitutional Review Chamber of Supreme Court shall be formed by 1 January 2003.

#### **§ 130. Formation of Disciplinary Chamber**

(1) For the formation of the Disciplinary Chamber, the Court *en banc* shall elect two judges of a circuit court and two judges of a court of the first instance for a term of two years, and three judges of a circuit court and three judges of a court of the first instance for a term of three years.

(2) Until the formation of the Disciplinary Chamber pursuant to this Act, the functions of the Disciplinary Chamber shall be performed by the current Disciplinary Committee. The Disciplinary Chamber shall be formed pursuant to this Act not later than by 1 January 2003.

#### **§ 131. Authority of chairmen of courts and directors of court**

(1) The term of authority of the chairmen of courts in office at the time of entry into force of this Act shall commence as of the date of entry into force of this Act.

(2) Directors of court of courts shall be appointed to office by way of a public competition not later than by 1 January 2003. Until the appointment of a director of court by way of a public competition, the duties of the director of court provided in subsections 15 (4), 16 (4), 17 (4) and § 125 of this Act shall be performed by the chairman of the court.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 131<sup>1</sup>. Specifications of requirements for assistant judges**

(1) A person who has acquired the professional education of assistant judge at an institution of applied higher education may also be appointed as an assistant judge.

(2) Preparatory service is also deemed to be concluded upon graduation from an institution of applied higher education which provides special education for assistant judges. The Minister of Justice shall determine the place where the practical training is conducted, and appoint the supervisors. Subsection 122 (2) of this Act applies to supervision. The assistant judge's examination committee may also administer the final exam of an institution of applied higher education in which case such exam is deemed to be an assistant judge's examination.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 131<sup>2</sup>. Appointment of court official to position of judicial clerk**

A consultant or another court official may be appointed to the position of a judicial clerk exclusively pursuant to the procedure specified in subsection 125<sup>1</sup>(5) of this Act and in case he or she complies with the requirements established in subsection 125<sup>1</sup>(4) of this Act.

[RT I, 29.12.2012, 2 - entry into force 01.01.2013]

### **§ 132. Formation of judge's examination committee**

(1) The judge's examination committee shall be formed pursuant to this Act not later than by 1 January 2003.

(2) Until the formation of the judge's examination committee pursuant to this Act, the functions of the committee shall be performed by the current judge's examination committee.

(3) The service of persons who are in preparatory service at the time of the entry into force of this Act shall continue pursuant to the current plan until the bringing thereof into conformity with this Act. The period of the service of the persons who are in preparatory service at the time of the entry into force of this Act may be reduced, but for not more than one year.

### **§ 132<sup>1</sup>. Judge's pension**

The following are judge's pensions:

- 1) judge's old-age pension;
- 2) judge's superannuated pension;
- 3) judge's pension for incapacity for work;
- 4) survivor's pension for judge's family members.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

### **§ 132<sup>2</sup>. Right to receive judge's old-age pension**

(1) The right to receive a judge's old-age pension shall be held by a person of pensionable age, who:  
1) has held the office of judge after 31 December 1991 and who by 1 July 2013 has been employed as a judge for at least fifteen years;

2) holds the office of judge as at 1 July 2013 and who by the time of retirement has completed the pension qualifying period required for the grant of the old-age pension provided for in clause (1) 1) of this section;

3) has held the office of judge after 31 December 1991 and who by 1 July 2013 has been employed as a judge for at least ten years and whose percentage of the loss of his or her capacity for work is 100, 90 or 80;

4) holds the office of judge as at 1 July 2013 and who by the time of retirement has completed the pension qualifying period required for the grant of the old-age pension provided for in clause (1) 3) of this section and whose percentage of the loss of his or her capacity for work is 100, 90 or 80.

(2) The right to receive a judge's old-age pension, irrespective of the age, shall be held by a person whose percentage of the loss of his or her capacity for work is 100, 90 or 80, and who:

1) has held the office of judge after 31 December 1991 and who by 1 July 2013 has been employed as a judge for at least fifteen years;

2) holds the office of judge as at 1 July 2013 and who by the time of retirement has completed the pension qualifying period required for the grant of the old-age pension provided for in clause 1) of this subsection.

(3) The right to receive a judge's old-age pension shall be held by a person of pensionable age, who:  
1) has been the Chief Justice of the Supreme Court after 31 December 1991 and before 1 July 2013, or  
2) is the Chief Justice of the Supreme Court as at 1 July 2013, or  
3) holds the office of judge as at 1 July 2013 and who is appointed the Chief Justice of the Supreme Court after 1 July 2013.  
[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

#### **§ 132<sup>3</sup>. Right to receive judge's superannuated pension**

The right to receive a judge's superannuated pension, irrespective of the age, shall be held by a person, who:  
1) has held the office of judge after 31 December 1991 and who by 1 July 2013 has been employed as a judge for at least thirty years;  
2) holds the office of judge as at 1 July 2013 and who by the time of retirement has completed the pension qualifying period required for the grant of the superannuated pension provided for in clause 1) of this section.  
[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

#### **§ 132<sup>4</sup>. Right to receive judge's pension for incapacity for work**

The right to receive a judge's pension for incapacity for work in the case of permanent incapacity for work during his or her employment as judge shall be held by a person, who:  
1) has held the office of judge after 31 December 1991 and whose permanent incapacity for work arose before 1 July 2013;  
2) holds the office of judge as at 1 July 2013.  
[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

#### **§ 132<sup>5</sup>. Right to receive survivor's pension for judge's family members**

The right to receive a survivor's pension for judge's family members shall be held by a family member who has the right to receive survivor's pension, if:  
1) the judge has held the office of judge after 31 December 1991 and before 1 July 2013 and the right to receive survivor's pension was created before 1 July 2013;  
2) the judge who held the office of judge as at 1 July 2013 deceases during his or her employment as judge.  
[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

#### **§ 132<sup>6</sup>. Amount of judge's pension**

(1) The amount of a judge's old-age pension and superannuated pension shall be 75% of the salary of his or her most recent position, which was in force on the day as of which the pension is granted.

(2) The amount of the old-age pension of the Chief Justice of the Supreme Court or a person who has been the Chief Justice of the Supreme Court is 75% of the salary of the Chief Justice of the Supreme Court, which was in force on the day as of which the pension is granted, if he or she has been employed as the Chief Justice of the Supreme Court for at least five years, and 50% if he or she has been employed as the Chief Justice of the Supreme Court for less than five years.

(3) The amount of a judge's pension for incapacity for work is:  
1) 75% of a judge's recent salary, which was in force on the day as of which the pension is granted, in the case of a 100 per cent loss of capacity for work;  
2) 70% of a judge's recent salary, which was in force on the day as of which the pension is granted, in the case of a 80 or 90 per cent loss of capacity for work;  
3) 30% of a judge's recent salary, which was in force on the day as of which the pension is granted, in the case of a 40 to 70 per cent loss of capacity for work;

(4) In case of a judge's death, a family member who has the right to receive survivor's pension shall be paid a survivor's pension of 30% of the judge's recent salary, which was in force on the day as of which the pension is granted, but in total not more than 70% of the judge's recent salary, which was in force on the day as of which the pension is granted.  
[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

#### **§ 132<sup>7</sup>. Grant and payment of judge's pension**

(1) The grant and payment of a judge's pension shall be performed pursuant to the procedure provided for in the State Pension Insurance Act, unless otherwise provided for in this Act.

(2) A judge's pension, except for pension calculated on the basis of the salary of the current year, shall be indexed by 1 April of each current year by the highest salary rate index specified in subsection 2 (2) of the High-Ranking State Public Servants Salaries Act.

(3) The part of a judge's pension which exceeds the pension calculated pursuant to the State Pension Insurance Act shall be paid from the state budget through the budget of the Ministry of Justice and the Supreme Court.

(4) A judge's pension shall not be increased on the bases provided for in the Public Service Act. If a person has the right to receive several classes of state pension, one pension shall be granted to the person at his or her choice.

(5) A judge's pension shall not be paid during employment as a judge. If a retired judge is employed elsewhere, he or she shall receive the judge's pension in full regardless of the amount of the earnings.

(6) A judge's pension shall not be granted to a person who has been removed from office for a disciplinary offence or who has been convicted of an intentionally committed criminal offence. The specified pension shall be withdrawn from a person who is convicted of a criminal offence directed against the administration of justice.

(7) A person convicted for an offence provided for in Chapter 15 or Division 2 of Chapter 17 of the Penal Code, for which the Penal Code prescribes as at least up to five years' imprisonment, loses the right to judge's old-age pension and judge's superannuated pension.

(8) If a person was paid a judge's old-age pension or a judge's superannuated pension provided for in this Act, the payment of the pension is terminated as of the month following the month of entry into force of the court judgment. In case of losing the right to pension provided for in this Act, the person retains the right to apply for pension pursuant to general principles.

(9) The court shall notify the Social Insurance Board within 10 working days as of the entry into force of the court judgment in writing of the fact in connection with which the person loses the right to judge's old-age pension and judge's superannuated pension provided for in this Act.

(10) The provisions of subsection (7) of this section apply to persons in respect of whom a judgment of conviction entered into force after 10 March 2009.  
[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

### **§ 133. Payment of judge's pension**

(1) The time of employment as a judge before entry into force of this Act shall also be included in the length of service necessary to receive a judge's old-age pension.

(2) For judges who are appointed to office until the entry into force of this Act, employment in the position of lecturer of law with a research degree of an Estonian institution of higher education, sworn advocate, prosecutor, the Chancellor of Justice or in any other position which requires high qualification in law shall also be included in the length of pensionable service as judge. The provisions of this subsection do not extend to the calculation of the pension qualifying period necessary to receive the superannuated pension (§ 132<sup>2</sup>).  
[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

(3) Within one year as of the entry into force of this Act, the judge's examination committee shall decide on the determination of the years of pensionable service of all judges, taking into consideration the provisions of this section.

(4) Sections 132<sup>1</sup>–132<sup>6</sup> of this Act also apply to persons who are not employed as judges at the time of the entry into force of this Act but have held the office of judge after 31 December 1991.  
[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

(5) Within five years as of the entry into force of this Act, the right to receive judge's old-age pension also arises for a person after his or her employment as a judge for five years if the person has held the office of judge after 31 December 1991, attained the pensionable age, and has been employed for at least ten years in positions which the judge's examination committee has deemed to be equal to holding the office of judge.

(6) Judges who attain the pensionable age within five years as of the entry into force of this Act and who have not completed five years of pensionable service as a judge, have the right to remain in the office of judge until completion of the years of pensionable service on the condition that they, on the date of entry into force of this Act, held the office of judge and have been employed for at least ten years in positions which the judge's examination committee has deemed to be equal to holding the office of judge.

(7) A judge who is at least 55 years of age and who at least during the last ten years has worked as a judge has the right to receive the judge's old age pension after he or she leaves the office of judge. The decision to leave office in order to use such right shall be made by 1 January 2003. In the case the judge continues work in public service, the amount of his or her pension plus his or her remuneration received in public service shall not exceed the amount received by him in the position of a judge.

(8) A judge who as at 1 July 2013 has been transferred to the service of the Supreme Court or the Ministry of Justice (subsection 58 (1)), elected or appointed as judge of an international court institution or who participates

as an expert in an international civil mission (subsections 58<sup>1</sup>(1) and (5)), retains the right to the pension provided for in §§ 132<sup>1</sup>–132<sup>6</sup>.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

#### **§ 134. [Repealed - RT I 2009, 15, 93 - entry into force 01.03.2009]**

#### **§ 135. Competence of lay judges**

Lay judges elected before the entry into force of this Act have the authority of lay judges until the end of the term of their authority.

#### **§ 136. Authority of assistant judge's examination committee**

(1) The assistant judge's examination committee shall be formed pursuant to this Act not later than by 1 January 2003.

(2) Until the formation of the assistant judge's examination committee pursuant to this Act, the functions of the committee shall be performed by the current assistant judge's examination committee.

#### **§ 137. Transitional provisions concerning organisation of judges' training**

(1) Until the year 2004, the judges' training program shall also include follow-up training.

(2) The Ministry of Justice shall transfer the information and contracts necessary for the preparation of the judges' training program to a foundation pursuant to the procedure approved by the Minister of Justice, and the foundation shall begin the preparation of the judges' training program for the year 2003 not later than 1 September 2002.

(3) Until the formation of the Training Council pursuant to this Act, the functions of the Training Council shall be performed by the current Training Council.

#### **§ 137<sup>1</sup>. Employment in international court institutions**

Section 58<sup>1</sup> of this Act applies also to judges of international court institutions elected or appointed before the entry into force of the specified provision.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

#### **§ 138. Merger of courts**

(1) The Kohtla-Järve City Court and the Ida-Viru County Court shall be merged not later than by 1 January 2003. Until such date, the Kohtla-Järve City Court shall operate as a separate judicial institution.

(2) The Hiiu County Court and the Lääne County Court shall be merged not later than by 1 January 2003. Until such date, the Hiiu County Court shall operate as a separate judicial institution. After the merger of the courts, at least one judge of the Lääne County Court shall stay at Hiiumaa to resume permanent employment as judge.

#### **§ 138<sup>1</sup>. Authority of chairman of court and director of court**

(1) The Minister of Justice shall appoint the chairman of the county court and the administrative court not later than by 1 May 2006. The Minister of Justice may temporarily assign the duties of chairman to a judge of county court or administrative court with the consent of the judge until the appointment of a chairman of the court. The temporary acting chairman of a court shall be paid additional remuneration provided for in subsection 76 (2) of this Act.

(2) The Minister of Justice shall appoint the director of court to office on the basis of a public competition not later than by 1 March 2006. Until the appointment of a director of the court, the chairman of the court or the judge specified in subsection (1) of this section shall perform the functions of the director of a court provided for in subsection 15 (4), subsection 16 (4), subsection 17 (4) and subsection 125 (1) of this Act.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

(3) Directors of court appointed before 1 April 2013 shall be automatically considered participants in the competition for the position of the director of the court where they serve, unless he or she submits a written notice concerning the refusal to participate in the competition. The notice concerning the refusal to participate in the competition shall be submitted no later than the end of the term indicated in the notice concerning the competition.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

#### **§ 138<sup>2</sup>. Termination of authority of chairman of county court, city court and administrative court**

(1) The authority of chairmen of county, city and administrative court appointed before 1 January 2006 shall terminate upon the entry into force of this Act.



(2) The judges specified in subsection (1) of this section shall be paid additional remuneration in the amount of 15 per cent of his or her salary until 31 December 2006 if he or she was chairman of a county court, city court or administrative court where up to fourteen judges were working, or in the amount of 25 per cent of his or her salary if he or she was chairman of a county court, city court or administrative court where at least fifteen judges were working. Additional remuneration shall not be paid if the judge specified in subsection (1) is appointed chairman of a county court or administrative court pursuant to the provisions of subsection 138<sup>1</sup>(1) of this Act. [RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 138<sup>3</sup>. Determination of exact location and service areas of courthouses and the number and distribution of judges**

The Minister of Justice shall determine the exact location of courthouses and the service areas of county and administrative courts (subsection 9 (3) and subsection 18 (3)) and the number of county and administrative court judges and their distribution among courthouses (§§ 11 and 19) not later than by 1 October 2005. [RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 138<sup>4</sup>. Service of county, city and administrative court judges**

(1) On 1 January 2006, the county, city and administrative court judges who are in office are deemed to be appointed to office as follows:

- 1) the judges of Tallinn City Court and Harju County Court are deemed to be judges of Harju County Court;
- 2) the judges of Ida-Viru County Court, Narva City Court and Lääne-Viru County Court are deemed to be judges of Viru County Court;
- 3) the judges of Pärnu County Court, Saare County Court, Lääne County Court, Järva County Court and Rapla County Court are deemed to be judges of Pärnu County Court;
- 4) the judges of Tartu County Court, Jõgeva County Court, Viljandi County Court, Valga County Court, Põlva County Court and Võru County Court are deemed to be judges of Tartu County Court;
- 5) the judges of Tallinn Administrative Court and Pärnu Administrative Court are deemed to be judges of Tallinn Administrative Court;
- 6) the judges of Tartu Administrative Court and Jõhvi Administrative Court are deemed to be judges of Tartu Administrative Court;

(2) On 1 January 2006, the courthouse which is located in the district where the county, city or administrative court was located where the county or administrative court judge was working as a judge before the entry into force of this Act shall be deemed to be his or her permanent place of service.

[RT I 2005, 15, 85 - entry into force 01.01.2006]

### **§ 138<sup>5</sup>. Validity of division of tasks plan**

After the entry into force of the Courts Act Amendment Act for the merger of territorial jurisdictions of courts, the division of tasks between judges shall be determined by courthouses on the basis of the division of tasks plans which were in force immediately before the entry into force of the specified Act, until approval of the new division of tasks plan. The full court shall approve the new division of tasks plan not later than by 1 March 2006.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

### **§ 138<sup>6</sup>. Authority of lay judge**

(1) The lay judges appointed to office before 1 January 2006 whose authority has not terminated shall be deemed to be appointed to office in the following courts:

- 1) the lay judges of Tallinn City Court and Harju County Court are deemed to be lay judges of Harju County Court;
- 2) the lay judges of Ida-Viru County Court, Narva City Court and Lääne-Viru County Court are deemed to be lay judges of Viru County Court;
- 3) the lay judges of Pärnu County Court, Saare County Court, Lääne County Court, Järva County Court and Rapla County Court are deemed to be lay judges of Pärnu County Court;
- 4) the lay judges of Tartu County Court, Jõgeva County Court, Viljandi County Court, Valga County Court, Põlva County Court and Võru County Court are deemed to be lay judges of Tartu County Court;

(2) The authority of lay judges appointed before 1 January 2006 shall terminate upon expiry of the term specified in subsections 104 (1) or 104 (4) of this Act.

[RT I 2005, 71, 549 - entry into force 01.01.2006]

### **§ 138<sup>7</sup>. Liquidation of Viru Circuit Court**

(1) As of 1 October 2008, any appeals received by Viru Circuit Court shall be forwarded for adjudication to Tartu Circuit Court. Any appeals against court ruling received by Viru Circuit Court shall be adjudicated until the closing of the court in Viru Circuit Court. On 31 December 2008, any court cases heard by Viru Circuit Court shall be forwarded for adjudication to Tartu Circuit Court.

(2) A judge of Viru Circuit Court who upon the liquidation of the court is released from office on the basis of clause 99 (1) 5) of this Act and who by the time has at least 20 years of service of judge required for old-age pension together with the length of service specified in subsection 133 (2) of this Act shall have the right to receive the judge's old-age pension. In the case the judge continues work in public service, his or her pension together with the remuneration received in public service shall not exceed the amount received by him in the position of a judge.

(3) Judges of Viru Circuit Court no later than by 1 April 2008 shall notify the Ministry of Justice of the wish to use the right arising from subsection (2) of this section to receive judge's old-age pension or the wish to commence work as of 1 January 2009 either in Viru County Court or Tartu Circuit Court or the consent to release from office on the basis of clause 99 (1) 5) of this Act. Failure to submit the notice shall be considered the wish of a judge of Viru Circuit Court to commence work in Tartu Circuit Court.

(4) If a judge of Viru Circuit Court commences work on the basis of subsection (3) of this section as of 1 January 2009 as a judge of Viru County Court, his or her old-age pension shall be calculated from the judge's salary in the circuit court valid at the time of grant of the pension taking into account the provisions of subsections 132<sup>2</sup>(1) and (2) and subsection 132<sup>6</sup>(1) of this Act, unless he or she is entitled to receive more favourable judge's old-age pension.

[RT I, 29.12.2012, 1 - entry into force 01.07.2013]

(5) A judge of Viru Circuit Court who uses the right arising from subsection (2) of this section to receive judge's old-age pension shall not be paid the compensation arising from subsection 86 (1) of this Act.

[RT I 2008, 13, 85 - entry into force 24.03.2008]

### **§ 138<sup>8</sup>. Termination of payment of additional remuneration paid to judges for years of service**

Upon the termination of the payment of the additional remuneration paid to judges for years of service specified in this Act, the judge's salary shall not decrease. If the judge's salary following the entry into force of this Act is smaller than the judge's former salary, the judge shall be paid the former salary until the judge's salary pursuant to this Act and the High-Ranking State Public Servants Salaries Act exceeds the former salary.

[RT I 2010, 1, 2 - entry into force 01.07.2013 (entry into force amended RT I, 29.12.2012, 1)]

### **§ 138<sup>9</sup>. Term of office of directors of court of courts of first instance and courts of appeal**

Upon the entry into force of subsection 125 (3) of this Act, the term of authority of directors of court of courts of the first instance and courts of appeal shall be effective for five years after the entry into force of the Act.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

### **§ 138<sup>10</sup>. Specification for application of subsection 84 (2) of this Act**

The holiday of 49 days for judges of court of the first instance and court of appeal and of 56 days for justices of the Supreme Court shall be preserved for two years as of 1 April 2013 in case they serve as judges as at 1 April 2013.

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

**§ 139.–§ 151.**[Omitted from this text.]