**The response of the Government of Estonia to the Questionnaire on the issue of selecting, appointing, promoting, transferring, suspending or removing judges.**

1. In Estonia the appointment of judges is regulated by art 55 of the Courts Act. A judge shall be appointed to office for life. Judges of first and second instances shall be appointed to office by the President of the Republic on the proposal of the Supreme Court en banc. Justices of the Supreme Court shall be appointed to office by the Parliament, on the proposal of the Chief Justice of the Supreme Court. The Chief Justice of the Supreme Court shall be appointed to office by the Parliament on the proposal of the President of the Republic.

A person has to pass the judge’s examination, which evaluates the legal knowledge of a candidate for judicial office and the ability to use these before he/she can apply to be a judge. A judge’s examination shall consist of a written and oral part and is arranged by the judge’s examination committee. A person who was worked for at least three years as a sworn advocate or prosecutor, excluding an assistant prosecutor, and runs as a candidate for judicial office within three years after terminating the activities of a sworn advocate or prosecutor shall be exempted from passing a judge’s examination. The judge’s examination committee may exempt from a judge’s examination also a person who has worked in another office or position, if the complexity and responsibility of the office or position correspond to the complexity and responsibility of judicial office.

1. Courts Act art 69 regulates the work of judge’s examination committee

The judge’s examination committee shall have sixteen members and is formed for three years. The judge’s examination committee shall be comprised of four judges of the court of first instance elected by the Court *en banc*, four circuit court judges, four 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 responsible for the area, a sworn advocate designated by the leadership of the Bar Association and the State Prosecutor designated by the Prosecutor General. The judge’s examination committee shall elect the chairman of the judge’s examination committee from among its members.
The Supreme Court shall organize the clerical support to the judge’s examination committee.

1. **Courts Act** (available also in english: <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/505012017005/consolide>)

**Art 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 (22) of the Republic of Estonia Education Act or a corresponding foreign qualification;
 2) has proficiency of the Estonian language at the level C1 provided for by the Language Act or a corresponding level;
 3) is of high moral character;
 4) has the abilities and personal characteristics necessary for working as a judge.

 (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;
 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.

**Art 48.****Judge’s age**

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

**Art 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.

**Art 54.****Assessment of suitability of personal characteristics of candidates for judicial office**

 (1) The suitability of the personal characteristics of a candidate for judicial office shall be evaluated by the judge’s examination committee. The judge’s examination committee shall take into account in the evaluation of the personal characteristics of a candidate for judicial office the information which is important for the performance of the duties of a judge and the committee can make inquiries.

 (11) The forms and procedure for the evaluation of the personal characteristics shall be stipulated in the rules of procedure of the judge’s examination committee.

 (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.

 (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 Estonian Internal Security Service.

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

 (5) The Estonian Internal Security Service shall, within three months as of receipt of the documents specified in subsection (3) of this section, present the information gathered as a result of the security check to the judge’s examination committee and shall provide an opinion on whether a person who submitted the application meets the conditions for the issue of a permit for access to state secrets.

 (6) Relying on the data collected in the course of the security check, a candidate for judicial office may be appointed judge within three years as of the time when the Estonian Internal Security Service forwarded the information collected in the course of the security check to the judge’s examination committee. A person may be appointed judge later than the above term after passing a new security check.

 (61) The examination committee may apply for:
 1) specification and modification of the information gathered in the course of the security check;
 2) verification of existence of individual circumstances specified in art 32 of the State Secrets and Classified Information of Foreign States Act within the term specified in subsection (6) of this section.

 (62) To specify and modify the information specified in subsection (61) of this section and verify the existence of circumstances specified in art 32 of the State Secrets and Classified Information of Foreign States Act, a candidate for judicial office shall sign the consent specified in subsection (3) of this section.

 (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.

**art 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.

 (31) A judge in the service of a court of first instance shall be transferred to the position of a judge of a court of appeal by a resolution of the Supreme Court *en banc*. The authority of a judge at a court of appeal shall commence as of the date specified in a resolution of the Supreme Court *en banc*.

 (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.

 (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.

**art 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.

**art 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 responsible for the area. 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.]

 (11) If a vacant position of the chairman of a court is filled pursuant to the procedure provided for in artart 12, 20 and 24 of this Act, subsection (1) of this section does not apply. The transfer of a judge shall be documented by a directive of the minister responsible for the area.

 (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.

 (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.

**art 58.****Employment of judges in Supreme Court and Ministry of Justice and appointment as Prosecutor General**

 (1) A judge may be transferred, without a competition, 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. A judge may be appointed as the Prosecutor General at his or her request. During service in the Supreme Court or the Ministry of Justice or as the Prosecutor General, the authority of the judge shall be suspended. The judge shall retain the judge’s salary and other guarantees during service in the Supreme Court or the Ministry of Justice. Upon appointment as the Prosecutor General, the judge shall be paid the salary of the Prosecutor General and he or she shall retain other judge's guarantees.]

 (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 the Supreme Court or the Ministry of Justice or the position of the Prosecutor General 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 or the position of the Prosecutor General, 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 or appointment as the Prosecutor General.

**Art 581.****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.

 (11) 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 responsible for the area. 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. A judge shall give notice of the wish to return to the chairman of the corresponding court in writing:
 1) no later than one month before the regular termination of the judge's service at an international court institution or returning from an international civil mission;
 2) no later than one month after the early termination of the judge's service in an international court institution or returning from an international civil mission;

 (21) Upon failure to notify in due time of the wish to return specified in subsection (2) of this section it shall be considered that the judge does not wish to return to the same court.

 (3) 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 the same court to a vacant position of judge, the Supreme Court *en banc* may appoint a judge to a vacant position of judge at 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.

**art 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.

**art 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.

**art 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.

**art 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.

**art 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.

**art 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.

**art 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.

**art 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.

**art 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.

**art 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.

**art 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.

 (31) 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.

**art 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.

**The legislation of selection and appointment of judges is described in the answers 1 and 2.**