

# Quality Management in the Court System of Estonia

## Introduction

A reliable and effective court system needs well-planned and transparent management. Quality management means promoting unified values in the court system and acting on the basis of those values. A quality management system helps judges and chairmen of courts, but also other court officials focus on what is important – it helps ensure timeliness of administration of justice and satisfaction of procedural parties. Quality management and funding of courts are not directly related to each other, i.e. the purpose of quality management is not to save costs but to enable more efficient administration of justice, using the existing resources. Efficiency means here not only the speed of court proceedings but also consistent guidance by common values throughout the proceedings, from the decision to accept a case into proceeding until preparing a comprehensible and reasoned adjudication. Quality management must ensure that administration of justice is not only correct and fair but is also seen as correct and fair by all procedural parties. Judges are independent in their tasks of administration of justice, but the chairman of the court and the Council for Administration of Courts may use their management role for ensuring quality and consistency of administration of justice as long as it does not jeopardise an individual judge's independence upon adjudicating a case. A quality management system helps shape joint goals of courts, the attitude of valuing the satisfaction of procedural parties, a collective of judges respecting their profession, a stable and disciplined collective of officials, and helps tidy the work processes and documentation.

Chairmen of Estonian courts consider it important to express the following joint opinion in order to ensure proper conduct of administration of justice – ensure adjudication with best quality in reasonable time, at the same time ensuring dignity of court officials and satisfaction of procedural parties.

### **I. Quality criteria for court management (good practices of court management)**

§ 12 (2), § 20 (2) and § 24 (2) of the Courts Act provide for competence of a chairman of a county court, an administrative court and a circuit court, respectively, in ensuring administration of justice pursuant to requirements; § 45 of the Courts Act provides for responsibility of the chairman of a court for administration of justice pursuant to requirements. In order to ensure administration of justice pursuant to requirements in courts, quality standards have been agreed in the following fields under the responsibility of a chairman of a court:

#### **1. In organising administration of justice**

**1.1. Equal and uniform workload ensured in organising the work distribution of judges. For that, the chairman of the court makes sure that the following is taken into account when preparing the court's work distribution plan:**

- the principles of preparing the court's work distribution plan for the next period are discussed sufficiently in advance;
- the work distribution plan's principles are based on the needs of administration of justice, taking into account the specialisation of judges if possible;

- preparation of the work distribution plan accounts for planned long-term absences of judges and determines the distribution of new cases if a judge falls ill. If the chairman of a court or a manager of a court house has reduced workload, it must be reflected in the work distribution plan;
- the principles for redistribution of cases are proactively agreed for the next work year, in order to ensure the proceeding of all cases in reasonable time;
- distribution of new cases is based as much as possible on the principles of work load methods;
- the work distribution plan for the next period, conforming to the aforementioned principles, is approved before the end of the current work distribution plan. If the new work distribution plan is not approved or not prepared pursuant to the aforementioned principles, the situation will be discussed in the Council for Administration of Courts. Cases will be distributed pursuant to the current work distribution plan until a new work distribution plan is adopted.

**1.2. Adjudication of cases in reasonable time is ensured upon consistent and efficient proceeding of cases. For that, the chairman of the court:**

- periodically monitors the equality of workload of all judges, based as much as possible on the method of work load points;
  - continually monitors the work performance of all judges on the basis of statistical analysis of cases;
  - based on the aforementioned analysis, makes proposals for reallocation of resources within the court; if necessary then makes a proposal to the Ministry of Justice for allocation of additional resources to the court;
  - based on the aforementioned analysis, makes proposals to the court's plenary session for redistribution of cases, following the principles prescribed in the work distribution plan;
  - ensures that judges and court officers do not fail to make necessary procedural acts within reasonable time unless having a good reason; ensures that court sessions of cases in proceeding are not appointed to an unreasonably far date in the future; if necessary, employees measures provided for in § 45 (1)<sup>1</sup> of the Courts Act;
  - monitors the content and quantity of appeals received by the court and conducts interviews with those judges and court officers whose activities have drawn more than average or higher-priority appeals in the monitoring period;
  - monitors the adjudications of courts of higher instance and conducts interviews with those judges who have more than average annulled adjudications in the monitoring period;
  - makes sure that a judge's work in education or research does not hinder administration of justice in reasonable time or the judge's independence;
- ensures that all judges and officials are aware of corruption risks and follow the requirements of professional ethics and are able to avoid conflicts of interest in their activity.**

**2. In managing court's resources**

**2.1. In the personnel field, availability of personnel with sufficient quality is ensured for administration of justice to requirements. For that, the chairman of the court:**

- makes proposals for changing the court's structure and staffing and for filling vacancies; co-undersigns the order pertaining to the court's structure and staffing, prepared by the director of the court and conforming to the needs of administration of justice;

- immediately informs both the Ministry of Justice and the Judge Examination Board of a judge's position becoming vacant and if necessary then applies for announcing a competition to fill the vacancy;
- actively participates in recruitment of judges, incl. informing other professional lawyer organisations of a vacant judge's position, organising an information event or sharing information about a vacant judge's position with suitably qualified persons;
- analyses the training needs of judges and court officers and forwards the analysis results to the Training Council, the Ministry of Justice or the director of the court, respectively. The chairman of the court is the primary contact person in communication with the Training Council;
- prepares a draft training plan of the court, if possible then accounting for wishes expressed by judges, and submits the draft training plan to the plenary session for approval, organises and supervises the plan's implementation and provides the plenary session at least once a year with an overview of fulfilling the training plan;
- has an overview of the training choices of judges and court officers and if necessary then corrects their choices in co-operation with the relevant judge or court officer, taking into account their personal training needs;
- enables judges and court officers to participate in training courses, based on the training programme prepared by the Supreme Court and the Ministry of Justice and accounting for the needs of administration of justice;
- makes proposals to organise internal training courses and supports conducting such training courses;
- as stemming from the supervision obligation of a chairman of a circuit court, he or she may also make training proposals regarding judges of a court of first instance;
- initiates and facilitates the conducting of regular work meetings in the court, accounting for the specialisation of judges;
- conducts development interviews with judges having service experience of up to 3 years, if necessary then every year, but with each judge at least once in five years, following the methodical guideline "Methods and criteria for provision of feedback to a judge"<sup>1</sup> adopted in the plenary session of 2011, and if possible then takes the interview results into account in managing the court;
- must consider establishing a system for periodic assessment of the quality of judges' professional activity, based on unified objective criteria and accounting for the principle of a judge's independence; supplement accordingly the quality criteria for court management;
- establishes the motivation system for judges and court officials in the court.

**2.2. In financial and economic field, the chairman of the court has an overview of the budget preparation and the use of budget funds. For that, the chairman of the court:**

- words the court's budget priorities, co-ordinates the court's draft budget prepared by the director of the court, accounting for the court's territorial jurisdiction's needs, and participates in budget negotiations in the Ministry of Justice;

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<sup>1</sup> . <http://www.nc.ee/vfs/1089/muudetud%20metoodika.pdf>

- receives periodic overview of the cost accounting system and the purposeful use of budget funds from the director of the court.

**2.3. In IT field, proper data entry is ensured in the information systems needed for administration of justice pursuant to requirements. For that, the chairman of the court:**

- performs supervision over the description and announcing of work processes concerning data entry into the Courts Information System and over the quality of data kept in the information system, with the aid of the director of the court, the office manager and the legal service manager;

**3. In communication management**

The chairman of the court is guided by the *Communication Strategy of Estonian Courts* (approved by the Council for Administration of Courts at its session on 20.05.2011);

**3.1. All parties are treated with human dignity and appropriateness upon communicating with the public and the media. For that, the chairman of the court:**

- adopts the court's communication management procedure and standard of communication and service;

- appoints the court's communication manager and a speaking judge for communication with the media;

- appoints the content manager of the courts' website;

- is responsible for implementing the communication strategy in co-operation with the communication manager;

- monitors the adhering to requirements prescribed in the standard of communication and service, if necessary then requiring analyses, reports and explanations from the director of the court, the office manager, the legal service manager and other court officers.

**3.2. Rights of procedural parties and parties turning to the court are protected and they are treated with dignity when communicating with them. For that, the chairman of the court makes sure that the following principles are adhered to:**

- the court's website is up-to-date and contains information concerning court proceedings or references to where such information is available;

- procedural parties are provided in timely manner with all the relevant information concerning court cases pertaining to them;

- procedural parties are provided with appropriate information as necessary, preserving the sense of fairness and unbiased approach;

- there are unambiguous direction signs and an information counter in the court; the court's officials communicate politely and appropriately over telephone.

## **II. Quality criteria for court administration (good practices of court administration)**

§ 39 of the Courts Act provides that courts of first and second instance are administrated in co-operation between the Council for Administration of Courts and the Ministry of Justice. The Courts Act also provides that courts perform the tasks of court administration if resulting from the law. In essence, this means that the Ministry of Justice conducts the daily ongoing administration and development of courts and the periodically gathering Council for Administration of Courts has primarily an advisory role. The administrative tasks within a court are placed on the director of the court. The director of the court is the judicial body's administrative, financial and personnel manager whose official activities have the purpose of creating prerequisites and conditions for more efficient functioning of the administration of justice and the court's structural units.

Administration of courts does not intervene in the content of administration of justice and makes sure that constitutional values are adhered to. The task of court administration is to ensure independent and accessible administration of justice, incl. establishing the work conditions needed for administration of justice and enabling sufficient training for court officers.

In order to ensure fair court proceedings pursuant to requirements, the court needs to have sufficient funds. Sufficient funding of courts establishes the conditions for efficient administration of justice; this includes work conditions pursuant to requirements, sufficient work means, and a salary level conforming to the complexity of work. For that, the parties of court administration (the Ministry of Justice, the Council for Administration of Courts, the court's management) must co-operate.

Based on the tasks of parties in court administration, quality standards for the following fields have been agreed on:

### **1. In funding of courts**

#### **1.1. In shaping the budget of courts**

- in setting the budget priorities of courts, the needs of the court as a whole are followed and the court's budget is prepared;
- the chairman, the plenary session and the director of the court co-operate in shaping the court's budget priorities; if necessary, the court's internal problems are solved in co-operation with the Ministry of Justice;
- courts and the Ministry of Justice co-operate in shaping the budget; any fundamental conflicts are discussed in the Council for Administration of Courts if necessary;
- the Council for Administration of Courts participates in as early a stage as possible in the process of shaping the principles of performance-based funding and the budgets of courts. Also, the principles of distributing the budget reserves of courts, agreed previously between the Ministry of Justice and the court's management, are discussed in the Council for Administration of Courts as soon as possible. Guided by § 33 (2) of the State Budget Act, the opinion of the Council for Administration of Courts concerning the conformity of funds planned for county courts, administrative courts and circuit courts

to the principles of shaping the annual budgets of courts<sup>2</sup> is added to the Ministry of Justice's draft budget<sup>3</sup>;

- in filling vacant positions of judges, a target is set that no position will be vacant for more than 6 months.

### **1.2. In processing the budget of courts**

- The courts' budget procedure takes place professionally, accounting for the parties' interests and respecting the agreed principles, guided by the agreed time schedule for the budget procedure<sup>4</sup>;

- the court has presented all its applications for budget negotiations in writing and in due time;

- budget negotiations of courts take place in writing and the court's development targets for the next year are agreed at a meeting between representatives of the Ministry of Justice and the court;

- the Director of the Supreme Court is involved as an observer in processing the budget of courts.

### **1.3. In fulfilling the budgets of courts**

- Responsibility for responsible use of the court's budget lies on the director of the court. In case of a budget deficit occurring, the director of the court immediately informs the chairman of the court and the Ministry of Justice thereof;

- courts may present the Ministry of Justice with reasoned applications for additional budget funds, guided by the budget distribution principles approved by the Council for Administration of Courts and taking into account the court's budget reserve. The Ministry of Justice provides a reasoned reply to all submitted applications within reasonable time;

- if the budget of courts needs to be reduced with a material reason, the Ministry of Justice informs the courts thereof as soon as possible and the principles of reduction are discussed with managers of all courts. The Council for Administration of Courts provides an opinion on reduction of the budget of courts.

## **2. In court management**

In managing a court, the chairman and the director of the court are guided by the Courts Act, the Ministry of Justice's development plan for administration of justice and legal protection, and the court's development targets. The director and the chairman of the court co-operate in ensuring the administration of justice pursuant to requirements. The director of the court employs measures to execute the observations of the chairman of the court and to apply for necessary additional resources.

The director of the court is responsible for financial and personnel management of the court. For that, the director of the court:

### **2.1. In the personnel field**

- prepares a draft order for approval or changing of court's structure and staffing, conforming to the needs of administration of justice, and presents it to the chairman of the court for co-undersigning. The

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<sup>2</sup> <http://www.riigikogu.ee/?op=ems&page=eelnou&eid=1ee475fd-4e39-47a8-b9c8-95288c8b92fe&>

<sup>3</sup> <http://www.riigikogu.ee/?op=ems&page=eelnou&eid=1ee475fd-4e39-47a8-b9c8-95288c8b92fe&>

<sup>4</sup> /süia lisatakse aadressid, kust ajakava kohtusüsteemile kättesaadav saab olema/

director of the court also prepares a draft order for filling the prescribed official and employment positions in the court's staffing;

- establishes optimum work procedures in the court for work processes supporting administration of justice;
- ensures that all officials are aware of corruption risks and follow the requirements of professional ethics and are able to avoid conflicts of interest in their activity;
- prepares the annual personnel development plan which reflects the time of conducting development interviews, information and training days and planned joint events (if possible) that are taken into account when preparing the court's budget;
- establishes a motivation system for judges and court officers, independent from personnel funds, doing so in co-operation with the chairman of the court;
- establishes a performance pay system for court officers;
- conducts or organises the annual development interviews of officials and employees, based on the court's structure;
- has a clear overview of the training needs of court officers, taking into account the proposals of the chairman of the court, and presents the report on training needs to the chairman of the court for approval;
- enables court officers to participate in training courses based on the training programme prepared by the Supreme Court or the Ministry of Justice and accounting for the needs of administration of justice;
- organises internal training courses and supports conducting such training courses;
- makes sure that court officers have a competitive salary;
- conducts supervision over work processes concerning data entry into the Courts Information System and over the quality of data kept in the information system, in co-operation with the chairman of the court, the office manager and the legal service manager;
- co-ordinates initiation of disciplinary proceedings concerning court officers, imposing of punishments and other personnel-related activities with the chairman of the court.

## **2.2. In establishing the work environment**

- ensures that judges and court officers starting work have a workplace and the work conditions needed for their work;
- ensures full instructing of new officers and their access to all registers needed for their work, no later than within their first work day;
- ensures the availability of means needed for the court's work; if necessary, conducts procurements for that purpose and co-operates with other agencies;
- ensures adherence to occupational health requirements in the court, pursuant to the Occupational Health and Safety Act<sup>5</sup>;

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<sup>5</sup> <https://www.riigiteataja.ee/akt/110022012005?leiaKehtiv>

- ensures adherence to requirements of buildings' security and data security in court houses; for that, co-operates with other agencies if necessary (incl. primarily the Centre of Registers and Information Systems and Riigi Kinnisvara AS)<sup>6</sup>.

### **2.3. In communication with procedural parties and parties turning to the court**

Co-operates in all manners with the chairman of the court, in order to ensure that procedural parties and parties turning to the court are treated with dignity and their rights are protected, incl. making sure that:

- the court's website is up-to-date and contains information concerning court proceedings or references to where such information is available;
- there are unambiguous direction signs and an information counter in the court; the court's officials communicate politely and appropriately over telephone.
- suggestions for improving the court's administration, made in satisfaction surveys of procedural parties, are discussed and if necessary then implemented.

### **3. In development of courts**

Upon development of courts, the Ministry of Justice and the Council for Administration of Courts are guided by the goal of quality management of courts, i.e. to ensure that adjudications with the highest possible quality are made within reasonable time and to ensure satisfaction of procedural parties. For that:

#### **3.1. The Ministry of Justice**

- Asks the court managers on the Ministry's management level for suggestions concerning development targets of courts of first and second instance for a coming long-term period in the legal protection and administration of justice fields of the Ministry of Justice's development plan. The Ministry of Justice's development plan for courts of first and second instance is discussed at the consultations day of court managers;
- involves court managers into preparation of the development plan part concerning courts of first and second instance and introduces the final draft of the development plan part and the approved development plan;
- discusses the annual development targets with court managers as soon as possible and agrees on those before the new budget year;
- co-operates with the Training Council and the Training Department of the Supreme Court in preparation of the development programme for court managers and the training programme for court officers; ensures the implementation of a training programme accounting for the relevant needs;
- introduces court managers to the development activities in the Ministry's annual work plan which affect the court's work, as soon as possible at the beginning of the year;
- informs judges and court officers as soon as possible about the need to involve them in development projects;
- informs courts about development activities initiated by other ministries, which affect the work of the courts;

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<sup>6</sup> <https://www.ria.ee/iske-dokumendid/>



- informs as soon as possible about implementation of planned development projects (for example in the field of information and communication technology development) in courts and ensures smooth implementation of the projects and the necessary training;
- sends the courts all important development suggestions involving the entire court system, in order to get the courts' opinions;
- is aware of applications submitted by court managers in the field of information and communication technology and ensures that those applications get a reasoned reply within reasonable time.

### **3.2. The Council for Administration of Courts**

- expresses its opinion of the Ministry of Justice's draft long-term development project in the administration of justice and legal protection fields, in the part concerning the activities of courts of first and second instance;
- reviews the approved development plan of the Ministry of Justice and its area of government;
- discusses important development suggestions involving the entire court system;
- if necessary then making legislative proposals to the Ministry of Justice for changing the procedural laws and work procedures of courts;
- is aware of problems and developments of courts via reports of administration of justice pursuant to requirements, submitted by chairmen of courts;
- makes sure that the positions of judges are filled.

## **III. Good Practice of the Court Procedure**

Quality of administration of justice is ensured if protection of the rights and freedoms of persons is substantially relevant, available, timely and effective. Taking into consideration the timely manner, relevance and effectiveness of the court procedure and the principle of non-interference in administration of justice stated in the Constitution<sup>7</sup> and in codes of procedure<sup>8</sup>, the full courts of first and second instance have discussed, and the court *en banc* has approved the principles listed below for ensuring quality of case hearings in courts.

### **1. Duration of the court procedure**

- Duration of the court procedure is predictable, and the procedure is conducted within a reasonable time. The judge informs the chairman of the court of the circumstance which does not allow the judge to adjudicate the matter within a reasonable time;

it is necessary to avoid inexpedient procedural acts which lead to extension of the procedure (*for example, direction to a compromise if it does not correspond to the wish or interest of a participant in the procedure or if it is unpromising for another reason, repeated specification of claims in a written procedure, if presumably it can be done more effectively during a preliminary hearing in presence of the appellant*);

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<sup>7</sup>The Constitution establishes that it must be possible to exercise any subjective right in court in an effective and fair procedure within a reasonable time (commentary to Art. 15 of the Constitution).

<sup>8</sup>The purpose of civil procedure is to guarantee adjudication of civil matters by the court justly, within a reasonable time and at the minimum possible cost. (Art. 2 of the Code of Civil Procedure).

For prosecution, a judge shall plan the court hearing in cooperation with the parties to the court procedure in such a manner which helps to avoid unnecessary loss of time, repeated summoning of persons to court and adjournment of a court session (Art. 261(3) of the Code of Criminal Procedure).

An administrative matter must be dealt with justly, fairly, within reasonable time and with the least possible cost (Art.2(2) of the Code of Administrative Procedure).

- in the interest of speed of the court procedure it is forbidden to breach the right of the participants in the procedure to a just adjudication of the matter and to a fair and impartial court procedure;
- priority court cases are adjudicated in the priority order, considering the priorities established by the full court (*for example, the right of custody of a child, support and work matters in civil cases, domestic violence and matters of minors, matters related to arrested persons in criminal cases, and offences of minors in misdemeanour cases, but also cases received and accepted for procedure from a court of higher instance due to annulment of a decision, old cases distributed from another judge, and cases procedure regarding which is renewed after suspension of a procedure*);
- the time of court procedure is planned considering duration of the entire procedure from the beginning to the end (*if possible, taking into consideration duration of the procedure preceding the court procedure*);
- it is necessary to observe correspondence of the procedure to the time schedule agreed with the participants in the procedure, and to make sure that no periods of unjustified inactivity occur during the procedure. If such periods occur, special efforts must be made in order to accelerate the procedure and recover the time lost.

## **2. Communication with participants in the procedure**

- Communication with the participants in the procedure is based on the norms established in the “Estonian Judges’ Code of Ethics”<sup>9</sup>. The court procedure is conducted in an atmosphere of professionalism and mutual respect;
- if necessary, communication with the participants in the procedure regarding organisational matters is conducted outside the court hearing, ensuring due notification of the parties;
- the participants in the procedure are informed of any significant aspect which has impact on adjudication of the court case.

## **3. Conduct of court procedure**

- Normally the participants and their representatives are engaged in planning of the times of the court sessions, taking into consideration, among other, the times of court sessions agreed earlier and, if possible, working schedules of the advocates and prosecutor;
- duration of the procedure must be predictable as exactly as possible. In case of the oral procedure deliberations regarding the course of the procedure take place during the first session, and in case of the written procedure a notice regarding the deadlines and times of the procedure is given when the type of procedure is decided. The times and deadlines must be adopted considering complexity of the court case;
- the court procedure is arranged in the economic way for the participants in the procedure possible, avoiding unjustified costs;
- the court case must be prepared for the court session thoroughly, so that the judge could assess relevance of applications and statements of the participants in the procedure, and if possible, adjudicate the court case during the same court session;
- actions of the judge during conduct of the procedure must be understandable for the parties;
- the court cannot ignore the circumstance where the party to the procedure acts during the court session without dignity, does not appear before the court, or notifies the court of non-appearance at the last moment;

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<sup>9</sup> <http://www.nc.ee/?id=525>.

- when the decision is written, it is necessary to plan sufficient time in order to avoid the time of announcement of the decision being postponed. If the time of announcement of the decision had to be postponed, the participants must be informed of the deference and of the new time of announcement of the decision.

#### **4. Cooperation with court officials**

- Communication with the court officials is based on the norms established in the “Estonian Judges’ Code of Ethics”. The judge must treat the court official with dignity, recognising his or her input in orderly conduct of administration of justice;
- instructions given to court officials must be specific and understandable;
- work in the procedural group (clerk of a court session, consultant, law clerk) managed by the judge must be organised in an understandable way, and instructions and feedback regarding work results of the procedural group must be given in order to ensure the best performance of the work duties.

#### **5. Communication with the media during the court procedure**

- During the court procedure, the recommendations given by the Council for Administration of Courts regarding communication with the media must be observed<sup>10</sup>.

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<sup>10</sup> <http://www.nc.ee/?id=680>.