



REPUBLIC OF ESTONIA
MINISTRY OF JUSTICE
AND DIGITAL AFFAIRS

Michael McGrath
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Our Ref: 19.05.2025 No 7-2/3953

Response to the letter

Dear Mr McGrath,

Thank you for your letter and for drawing attention to the composition of the proposed Court Administration Council (KHAN). I highly appreciate your interest in ensuring that the structure of judicial governance in Estonia aligns with internationally recognized standards.

The proposed composition of KHAN has been carefully designed to reflect best practices in judicial governance as outlined by the Consultative Council of European Judges (CCJE) and the European Network of Councils for the Judiciary (ENCJ) while simultaneously taking into account the specific characteristics and needs of the Estonian legal system.

Under the proposed reform, KHAN will consist of 11 members, 6 of whom are judges, including 5 elected by the general assembly of judges. Judges in KHAN will include two judges from circuit courts and three judges from first-instance courts, thereby ensuring representation across court levels and branches. The selection and appointment of judicial members will follow rules set by the judges' general assembly, in accordance with CCJE Opinion, which emphasizes transparency and independence in the selection process.

The inclusion of five non-judicial members (two members of the Parliament, the Minister of Justice and Digital Affairs or their representative, a sworn advocate appointed by the Bar Association, and the Chancellor of Justice or their representative) aligns with recommendations that at least one-third of the council's members should be non-judicial. This approach promotes societal representation, broadens the perspective of judicial governance, and mitigates the risk of corporatism.

While CCJE Opinion No. 24 advises that active politicians should preferably not be included, the limited participation of legislative and executive representatives in KHAN is justified by the need for inter-institutional cooperation in managing and developing the judiciary, especially where courts are gaining greater administrative autonomy.

In summary, the proposed structure of KHAN ensures a judicial majority, guarantees representation across all court levels, follows a transparent and independent selection process, and complies with international recommendations by integrating a meaningful share of non-judicial members. As referred above, this structure takes into account the specific characteristics and needs of the Estonian legal system, ensuring that the reforms are tailored to our context while adhering to global best practices.

Despite the above I would like to emphasize that the draft law has not yet been adopted, and discussions are still ongoing in the Parliament. Therefore, the points you have raised will certainly continue to be addressed and considered in the course of the negotiations.

Thank you once again for your engagement in this matter. I look forward to continued cooperation and fruitful dialogue in the future.

Yours sincerely,

Liisa-Ly Pakosta

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