

**Answers to the Questionnaire of the Fourth Study Commission “The judicial workplace and the intersection with judicial independence” (2023)**

**LITHUANIA**

**1. APPOINTMENT TO JUDICIAL OFFICE**

**A. Please describe the process by which a person is appointed to judicial office in lower courts, intermediate courts and superior courts pointing out any relevant differences between appointment in criminal civil or appellate courts.**

The system of courts, their competence, the system of court organization, activity, administration, as well as the system of autonomy of courts, also the status of judges, their appointment, career, liability, and other issues related to the judicial activities are regulated by the Constitution, the Law on Courts and other legal acts.

The court system of the Republic of Lithuania is made up of courts of general jurisdiction and courts of special jurisdiction.

The Supreme Court of Lithuania (hereinafter – the Supreme Court) (1), the Court of Appeal of Lithuania (hereinafter – the Court of Appeal) (1), regional courts (5), and district courts (12) are courts of general jurisdiction dealing with civil and criminal cases. District courts also hear cases of administrative offenses coming within their jurisdiction by law. The regional courts, the Court of Appeal, and the Supreme Court have the Civil Division and the Criminal Division.

The Supreme Administrative Court of Lithuania (1) and regional administrative courts (2) are courts of special jurisdiction hearing disputes arising from administrative legal relations.

Judges of the Supreme Court are appointed and dismissed by the Seimas of the Republic of Lithuania (hereinafter – the Seimas) at the recommendation of the President of the Republic of Lithuania (hereinafter – the President). Judges of the Court of Appeal are appointed by the President with the approval of the Seimas. Judges of district and regional courts, judges of the Supreme Administrative Court of Lithuania, and regional administrative courts are appointed and dismissed by the President.

Applicants who meet the requirements of the Law on Courts participate in the selection. The lists of applicants and conclusions drawn up by The Selection Commission of Candidates to Judicial Office (hereinafter – the Selection Commission) are submitted to the President. The President selects a specific applicant and, regarding his appointment, applies to the Council of Judges for advice on appointing him as a judge of the relevant court. Without the advice of the Council of Judges, the President cannot appoint that person as a judge and chooses another candidate, for which he again turns to the Council of Judges for advice. If the Council of Judges advises, the President may appoint this person as a judge of the district, regional, regional administrative, or Supreme Administrative Court of Lithuania, respectively. The President must obtain the approval of the Seimas regarding the judge of the Court of Appeal. After receiving the approval of the

Seimas, the applicant can be appointed as a judge of the Court of Appeal. If a judge of the Supreme Court is appointed, the President applies to the Seimas, which appoints a judge of the Supreme Court.

The procedure for appointing judges to criminal or civil divisions of the court is the same.

**B. If applicable, please identify whether political influences of any description bear upon in any way the appointment of a particular person to judicial office.**

According to the Constitution of the Republic of Lithuania, a judge cannot participate in the activities of political parties or other political organizations. But in Lithuania, legal acts do not prohibit a former politician from becoming a judge. However, in 2021, the President did not appoint a person who previously participated in political activities as a judge. This person was the Minister of Internal Affairs, and Deputy Minister of National Defense, who participated in the Seimas elections in 2020 with a political party but was not elected to the Seimas. In not appointing this person as a judge, the President argued that the former politician cannot work as a judge for the time being, because he participated in the elections as a candidate of the Lithuanian Peasants and Greens Party, he cannot hold the position of a judge because he does not meet the requirements of political neutrality <sup>1</sup>.

**C. Is ethnic or gender diversity in any way relevant to appointment to judicial office, and if so, please describe why and in what respect each may be relevant.**

A person appointed as a judge, regardless of his gender or ethnicity, does not affect the appointment of a judge.

**D. Describe whether and if so in what way the process of appointment to judicial office is independent of government.**

The Government does not participate in the process of appointing judges, therefore the process of appointing a judge does not depend on the Government. Judges are appointed by the President or the Seimas.

## **2. PROMOTION WITHIN THE JUDICIARY**

**A. Does scope exist for promotion within the judiciary and if so, please describe how and in what circumstances a magistrate or judge may be promoted.**

The career of judges and their promotion procedure is regulated by the Law on Courts. A judge who aspires to become a judge of a higher court shall be entered in the register of persons seeking a judicial career. A judge seeking a career in courts of the same level (who wants to become a court president, deputy president, or head of a department) is entered in the database of judges seeking a career in courts of the same level. All aspiring judges participate in the selection process.

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<sup>1</sup> <https://www.lrt.lt/naujienos/lietuvoje/2/1355162/misiunas-del-prezidento-atsiasakymo-grazinti-ji-i-teisejo-pareigas-kreipesi-i-teisma> ; <https://www.lrt.lt/naujienos/lietuvoje/2/1363628/teismas-neprieme-misiuno-skundo-del-nausedos-atsisakymo-ji-skirti-teiseju>

**B. To what extent is political affiliation of political partisanship relevant to promotion within the judiciary.**

A judge cannot participate in the activities of political parties, or other political organizations, and cannot belong to any political party.

**C. Describe the transparency involved in the process of promotion within the judiciary.**

Judges who wish to be promoted submit a request to enter them in the register of persons seeking a judicial career. Applicants are evaluated by the Selection Commission. The Selection Commission is composed of seven members, of which 3 judges are appointed by the Council of Judges and 4 are public representatives appointed by the President. The Selection Commission evaluates the judges' work experience, professional activity, personal competencies, motivation, and other circumstances. The Selection Commission draws up a ranking list of applicants. This list is compiled according to the number of points awarded to applicants by the Selection Commission and provides information on the results of the Selection Commission's voting on the suitability of applicants for the position. If the applicant does not agree with the results of the Selection Commission, he can appeal them to the Supreme Court. The list of applicants compiled by the Selection Commission is presented to the President.

The ranking list of applicants of the Selection Commission is submitted to the President. However, the Selection Commission's assessment of applicants is not binding on the President, so the President can choose any applicant from the list without stating the reasons for such choice.

The President turns to the Council of Judges for advice on the promotion of a specific judge. After receiving the advice of the Council of Judges, the President can appoint a judge as a judge of a higher level or as the chairman, deputy chairman, or chairman of a court department of the same level. Before appointing a judge or chairman (chairman of a court department) of the court of Appeal, the President must obtain the approval of the Seimas. The judge of the Supreme Court, the chairman of that court, or the chairman of the court department is appointed by the Seimas.

**3. WORKLOAD WITHIN THE JUDICIARY**

**A. In broad terms, what are the requirements for magistrates and judges in relation to the number of sitting days per year or other measurement of judicial workload requirements?**

Judges normally hold hearings and perform other judicial functions on weekdays, Monday through Friday. The judge plans and organizes his working time independently, except for the cases established by the procedural laws, so he can perform some work (for example, getting to know case materials, writing decisions, etc.) at other times convenient for the judge. District court judges are on duty on weekends and holidays due to the performance of pre-trial investigation actions according to the schedule.

Currently, the Council of Judges has formed a working group, the purpose of which is to prepare proposals on the criteria for determining the optimal workload of a district court (judge) and the procedure for its calculation.

**B. If a judge is encountering trouble keeping up with the workload, describe the regime that applies by which –**

**(i) that judge's workload is allocated to other judges;**

Cases are assigned to judges and panels of judges are formed in an automated way using a computer program. When a judge's workload is higher than that of other judges, that judge may be temporarily assigned no cases or assigned fewer cases.

**(ii) the overloaded judge can recover from workload arrears and from any other disabling factor that led to overload.**

A judge may be temporarily reduced in his caseload, i.e., fewer cases are assigned due to his employment in performing other functions of a judge related to the functioning of the court or judicial system, due to the judge's participation in the activities of self-governing institutions of courts, as well as when it is necessary to ensure the evenness of the judges' caseload.

**(iii) there are other mechanisms to address judicial delinquency.**

Due to the illness of a judge, when a judge is absent from work for a long time, the cases handled by him may be transferred to another judge.

**C. Are judges expected or required to assist other judges who may be adversely affected from overload so as to ensure that the business of the court is discharged in a timely manner.**

After receiving the case, the judge must examine it. Lithuanian legal acts do not provide for the possibility of taking cases from one judge and transferring them to another judge due to the heavy workload. When a judge's workload is higher than that of other judges, that judge may be temporarily not assigned new cases or assigned fewer cases.

#### **4. REMOVAL FROM JUDICIAL OFFICE**

**A. Does a regime currently exist in your country pursuant to which a sitting judge may be removed from office. If so, please describe any such regime, giving all relevant details including-**

**(i) who decides that the judge is to be removed from office;**

The Judicial Court of Honor can propose to the President or the Seimas to dismiss a judge from his duties for an act that demeans the name of a judge or to propose that the President address the Seimas to impeach a judge. The President may apply to the Council of Judges for advice to dismiss a judge for an act that demeans the judge's name into disrepute on his own initiative. A judge of the Supreme Court is dismissed from office by the Seimas at the proposal of the President.

A judge of the Court of Appeal is dismissed from office by the President with the approval of the Seimas.

The President dismisses the judge of the Supreme Administrative Court, the judge of the regional court, the regional administrative court, and the district court.

The Council of Judges advises the President on the dismissal of a judge.

**(ii) does the judge have a right of audience on any such motion or otherwise possess a right to be heard against the removal and is there an appeal process if removed;**

The decision of the Judicial Court of Honor can be appealed to the Supreme Court. The decision of the President or the Seimas to dismiss a judge can be appealed to the court. A dismissed judge has the opportunity to submit explanations to the Council of Judges, the Seimas (when a judge of the Supreme Court or the Court of Appeal is dismissed).

**(iii) what are the grounds for seeking the removal of a sitting judge;**

A judge may be dismissed from office in the following cases: 1) voluntarily; 2) when the judge's term of office expires or he reaches the statutory retirement age; 3) due to the state of health; 4) when the judge is elected to another position or transferred to another job with his consent; 5) when he demeans the name of the judge by his act; 6) when the court verdict accusing him becomes effective.

A judge of the Supreme Court, a judge of the Court of Appeal for a gross violation of the Constitution of the Republic of Lithuania or breaking the oath, as well as if it turns out that the judge has committed a criminal act, the Seimas can remove him from office by impeachment procedure.

**(iv) what is the relationship between violation of the ethics code / principles and removal \_**

Judges may be dismissed from their duties for acts that demean the judge's name, which violate the principles of conduct of judges established in the Code of Ethics of Judges.

**(v) describe the transparency in the process.**

The process of removing judges from office is transparent. The judge is heard during the process and can provide explanations. If the judge does not agree with the dismissal decision, he/she can appeal it to the court.

For a gross violation of the Constitution of the Republic of Lithuania or for breaking the oath, as well as if it turns out that the judge has committed a crime, the Seimas can remove the judge from office by impeachment procedure. The Constitutional Court of the Republic of Lithuania evaluates the judge's actions after the impeachment process has started.

**B. If removed from office, describe the adverse consequences that may affect the removed judge including -**

**(a) financial (especially pension) consequences;**

A judge who has been dismissed from office due to impeachment or if he has demeaned the name of a judge by his act cannot receive a judge's state pension.

**(b) future employment consequences following removal;**

A judge who has been dismissed from office due to impeachment or has demeaned the name of a judge by his act cannot be a lawyer or work in public service.

**(c) societal consequences including loss of title or civic decorations; and**

A judge who has been dismissed from office due to impeachment or if he has demeaned the name of a judge by his act loses the right to a judge's state pension but does not automatically lose civil awards.

**(d) disciplinary steps that may be taken against the removed judge \_**

The dismissal of a judge does not preclude the possibility of prosecuting the judge for the same violation.