POLITICAL INDEPENDENCE

1- In your country and legal system, with respect to reducing the influence of politics on the decisions that are made by judges, what guarantees or provisions of law exist to ensure the independence of judges in their decision-making? NOTE: We list several examples and invite you to add any others that may also apply in your own judicial system:

a- Is there security of a judge’s tenure in office? If so, please describe how this is provided – for example, by constitution, by statute, by judicial rules, etc.

According to Estonian Constitution judges are appointed for life.

b- Is there legislation that prohibits others in the government from interfering in the judicial decision-making process? If so, please describe.

Yes. For example, the Courts Act states that the Minister of Justice has no right of command or disciplinary authority over the judges.

c- Is there legislation that prohibits others outside the government from attempting to influence improperly a judge’s decision? If so, please describe.

Penal Code states the crimes against the judge. There are no other regulations.

d- Is there a system to provide for the physical security of a judge and the judge’s family that may be invoked by the judge? If so, how is this security provided and who provides it?

There are no special system.

e- Are there any special provisions to ensure a judge’s independence from improper political influence when the judge is deciding a matter involving alleged human rights violations? If so, please describe.

There are no special provisions.
f- Please describe any other guarantees or provisions of law that are intended to reduce the influence of politics on a judge’s decision-making?

There are no special provisions.

**APPOINTMENT SYSTEM FOR THE JUDGES/JUSTICES**

2- Are the procedures and criteria for judicial selection clearly defined by law in order to ensure transparency in the selection process? Please describe the procedures and criteria that exist.

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. 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. 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.

3- Is there a separate expert commission or other authority either outside or inside the judiciary which has jurisdiction and competence to participate in judicial selection, including to conduct examinations of prospective judges if such examination are used in the process of judicial selection? If so, please describe.

Yes. 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.

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.

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

The judge’s examination committee shall forward its decision and the documents to the Supreme Court en banc and notify the examinee of the decision.

ADMINISTRATION OF THE JUDICIARY

4- a- How are the salaries of judges set?

By the law.

b- Are those salaries and any other allowances paid to the judges adequate to satisfy the reasonable living expenses of judges?

Yes.

c- Do the judges’ compensation adequately reflect the dignity and importance of the judges’ position?

Yes.

5- Is the administrative authority of the chief judges/justices used in a way to influence the adjudication of cases and to affect the content of judicial decision-making? If so, how?

No.

6- To address disciplinary matters involving judges who are accused of violating judicial conduct rules, is there a judicial council or some other body that has the power to:

a- Receive complaints and conduct disciplinary investigations? If so, please describe.

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.

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

b- Hear evidence, make decision based on the evidence, and, if it finds a violation of judicial conduct rules, impose disciplinary measures? If so, please describe.

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. 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.

c- Hear appeals from the decisions that have found disciplinary violations and imposed disciplinary measures? If so, please describe.

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.

d- Does the person who has made a complaint about a judge’s conduct have an opportunity to participate in whatever process is available for reviewing that conduct? If so, what is the extent of that participation?

No.

INTERNATIONAL HUMAN RIGHTS ISSUES

7- What is the source of the law, if any, that a judge takes into consideration when deciding whether and how to enforce international human rights law? For example: the constitution, treaties, laws of the country?

The constitution, treaties, laws of the country.

8- Do there exist procedures by which your courts may hear cases involving alleged violations of international human rights law when those alleged violations are separate from and independent of the laws of your country law? If yes, please describe these procedures.

No.

9- If the answer to Question 8 is “No,” are there any types of cases in which a judge may consider and apply principles of international human rights law when making a decision, or is the judge limited to applying fundamental principles of international human rights law in making a decision only if such principles are embodied in the laws of the country?

A judge may consider and apply principles of international human rights law when making a decision.

10- Are there any persons or groups of people who work for the government in your country who have judicial immunity for their illegal actions?

No.

Sincerely

Meelis Eerik
President of the Estonian Association of Judges