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A Critical Study in Judicial Councils in the Baltic States – A Comparative Approach

Keywords: judicial council, judicial power, the Baltic states

Słowa kluczowe: rada sądownictwa, władza sądownicza, państwa bałtyckie

Abstract

This study aims to discuss the organizational models of the judicial councils functioning in the three Baltic States – Estonia, Lithuania, and Latvia. The analysis takes into account the time and direct rationale for establishing the relevant bodies, their composition and the process of selecting the chairperson, the length and recurrence of the term of office, the number of judges in the council, and the competences of the councils. The overview of Estonian, Lithuanian, and Latvian legal solutions is intended to examine the legal basis of the Judicial Councils, their legal status, composition, and organization, and their competences in the light of the standards developed in Europe. The work was prepared based on a dogmatic-legal method, using elements of historical and comparative analysis.

Streszczenie

Uwagi krytyczne o radach sądownictwa w państwach bałtyckich – analiza porównawcza

Celem niniejszego opracowania jest omówienie modeli organizacyjnych rad sądownictwa funkcjonujących w trzech państwach bałtyckich -Estonii, Litwie i Łotwie. W anali-

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zie uwzględniono czas i bezpośrednie przesłanki utworzenia odpowiednich organów, ich skład osobowy i proces wyłaniania przewodniczącego, długość kadencji i jej powtarzalność, liczebność sędziów w składzie rady oraz przysługujące radom kompetencje. Zestawienie estońskich, litewskich i łotewskich rozwiązań ma służyć zbadaniu pozycji ustrojowej i podstaw prawnych rad sądownictwa, określeniu ich statusu prawnoustrojowego, składu i organizacji oraz przysługujących im kompetencji w świetle standardów wypracowanych w Europie. Praca została przygotowana w oparciu o metodę dogmatyczno-prawną, z wykorzystaniem elementów analizy historycznej i porównawczej.

I. Background

The concept of the rule of law becomes invalid if deprived of such an important principle as the independence of courts and judges. In turn, the rule of law is the basis of a democratic society, as it guarantees the equality of citizens before the law and ensures the protection of their rights and freedoms². It is worth emphasizing that the adoption of specific models and solutions guaranteeing the independence of the judiciary is not only conditioned by the history, legal achievements, and axiological system of individual states. The regulations of international and regional human rights treaties are not without significance here. In the European context, the independence of the judiciary and the need to implement appropriate reforms in the legal system and the organization of the judiciary of the Member States are particularly stressed by the Council of Europe and the European Union³. These institutions pushed through institutional reforms aimed at establishing judicial councils⁴. This solution seemed to be adequate in the context of legal and so-

² D. Zawistowski, *Niezależność sądów i niezawisłość sędziów z perspektywy prawa Unii Europejskiej*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2016, vol. LXXVIII, No. 2, pp. 7–9.

³ S. Spáč, *Recruiting European Judges in the Age of Judicial Self-Government*, "German Law Journal" 2018, vol. 19, No. 5, p. 2080.

⁴ M. Bobek, D. Kosař, *Global Solutions, Local Damages: A Critical Study in Judicial Councils in Central and Eastern Europe*, "German Law Journal" 2014, vol. 15, No. 7, p. 1265.

cial challenges and allowed to create a solid basis for strengthening the independence of the judiciary and judges. This model was supposed to work particularly well in the case of Central and Eastern European countries that underwent a fundamental system transformation⁵. Thus, in the 1990s, judicial councils were already operating in most European countries. Their creation was closely related to the observance of the rule of law⁶. It was expected that their introduction into the system of state organs would strengthen the independence of courts, separate the judiciary from ad hoc political actions, and have a positive impact on the overall efficiency of judges' work.

The aim of the study is a legal and systemic analysis of the models of judicial governance functioning in the three Baltic states, i.e. Lithuania, Latvia, and Estonia with an attempt to evaluate them. The research has comparative character and is a part of a wider perspective of the analysis of the organization of the judiciary in the Baltic States. The list of Estonian, Lithuanian, and Latvian legal solutions relating to institutional guarantees of the independence of the judiciary and judges is intended to examine the systemic position and legal basis of judicial councils, determine their legal status, composition, and organization, and their competences. The study was prepared based on the dogmatic-legal and comparative method, with elements of historical analysis.

II. Genesis and Systemic Position of Judicial Councils

Adopting basic laws in each of the Baltic states was time-harmonized, and was driven by the need for a quick system transformation and the restoration of the status of these countries before the annexation by the USSR in 1940⁷. It should be emphasized that the principle of independence of judges as pillars of a democratic state of the law was valid in each of them. The princi-

⁵ Ibidem, p. 1257.

⁶ P. Castillo-Ortiz, *The Politics of Implementation of the Judicial Council Model*, "European Political Science Review" 2019, No. 11, pp. 508–509.

⁷ For more about the impact of the sovietization proces on the Baltic states read: W.K. Roman, *Polityka Związku Radzieckiego wobec państw nadbałtyckich (Litwy, Łotwy, Estonii) we wrześniu i październiku 1939 roku*, "Europa Orientalis. Studia z Dziejów Europy Wschodniej i Państw Bałtyckich" 2010, No. 2, pp. 199–218; M. North, *The Baltic. A History*, Cambridge-London 2016, pp. 263–275.

ple of independence aims to create conditions for the proper performance of the functions of the judiciary. The Lithuanian Basic Law adopted on October 25, 1992 in a referendum stipulates that the administration of justice is exercised by courts, and these should be independent, just like judges (Art. 109)⁸. The current Latvian Constitution is a legal act of unique provenance⁹ therefore significant differences in content and form should be noted compared to the constitutions of the latest generations. Although it is characterized by far-reaching laconic regulations, conservative systematics, and emphasis on regulations different than today, in Art. 83 it was explicitly noted that “judges are independent and subject only to statutes”¹⁰. The constitution of the Republic of Estonia of June 28, 1992¹¹ serves as a “typical example of a constitution adopted after the fall of an authoritarian regime – it is fully binding and enforceable in courts”¹². The independence of courts and judges has been included in the Constitution of the Republic of Estonia in Art. 146 and 147 and allow for the implementation of such fundamental constitutional principles as, inter alia democracy and rule of law¹³.

Therefore, securing the independence of courts and judges appears to be an important task from the state’s point of view. To protect the independence of judges, each of the Baltic States has established a separate institution for judicial governance, which has powers – even if they are limited – concerning the professional career of judges. These bodies have been, to a varying degree, endowed with competence in matters relating to the status, structure, or functioning of judicial institutions.

⁸ *The Constitution of the Republic of Lithuania* adopted by citizens of the Republic of Lithuania in the Referendum of 25 October 1992 (Parliamentary record, 1992–11-01, No. 11).

⁹ P. Osóbka, *System konstytucyjny Łotwy*, Warsaw 2016, pp. 29–34; B. Jagusiak, *Systemy polityczne krajów nadbałtyckich*, Warsaw 2013, pp. 62–64.

¹⁰ *The Constitution of The Republic of Latvia adopted 15.02.1922* (*Latvijas Vēstnesis*, 43, 01.07.1993); see also: J. Neimanis, *The Transformation of the Understanding of Judge Independence in Latvia*, “European Integration Studies” 2011, No. 5, p. 82.

¹¹ *The Constitution of the Republic of Estonia* passed 28.06.1992 (Riigi Teataja 1992, 26, 349).

¹² M. Ernits, *The Use of Foreign Law by Estonian Supreme Court*, [in:] *Judicial Cosmopolitanism. The Use of Foreign Law in Contemporary Constitutional Systems*, ed. G.F. Ferrari, Leiden-Boston 2019, p. 503; R. Narits, *The Republic of Estonia Constitution on the Concept and Value of Law*, “Juridica International” 2012, No. VII, pp. 11–13.

¹³ M. Ernits, op.cit., p. 503.

The Council of Europe and its bodies have formulated recommendations on the role, institutional place, competences, composition of the judicial councils and the guarantees to be provided by them. Concerning the Recommendation on Judges¹⁴, “Councils for the Judiciary are independent bodies, established by law or under the constitution, that seek to safeguard the independence of the judiciary and individual judges and thereby to promote the efficient functioning of the judicial system” (§ 26).

Within the Baltic states, the Lithuanian judicial council has the longest tradition. It was established as a body limiting the role of the executive power in shaping the professional situation of judges and was established in the Constitution of the Republic of Lithuania adopted on October 25, 1992, by referendum¹⁵. To be precise, it should be added that the shape of the Lithuanian judicial council has changed over time. However, as a rule, the establishment of the institution was not imposed from the outside but was an expression of an autonomous decision of the Lithuanian legislator¹⁶. In the other two Baltic states, the incorporation of judicial councils into the system of institutions of judicial self-government took place much later and resulted from different premises. The key factor here was the application of the so-called pre-accession conditionality by the European Commission during the process of enlargement of the European Union in 2004 to include the countries of Central and Eastern Europe and the Baltic states. It should be noted that the European Union gave priority to the model providing for the creation of an independent body that gives recommendations in the process of judicial appointments and disciplinary cases of judges.

The pressure turned out to be effective in the case of Estonia, and in 2002 Estonia established an institution limiting the powers of the Minister of Justice concerning the judiciary. In the end, Latvia withstood the pressure of

¹⁴ Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies; https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805afb78 https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805afb78 (20.09.2020).

¹⁵ R. Balicki, A. Juškevičiūtė-Vilienė, *Rada Sądomnictwa Republiki Litewskiej*, “Przegląd Prawa i Administracji” 2019, vol. 119, p. 95.

¹⁶ D. Kosař, *Beyond Judicial Councils: Forms, Rationales and Impact of Judicial Self-Governance in Europe*, “German Law Journal” 2018, vol. 19, No. 7, pp. 1573–1574.

expectations of the European Commission. Therefore, the traditions related to the functioning of the judicial council are the shortest here and date their beginnings only in 2010.

Not only the time horizon and reasons for the establishment are different, but also the legal status of judicial councils was different¹⁷. And, as has already been indicated, the judicial council (*Teisėjų Taryba*) is a constitutional body only in Lithuania. The order to establish a “special institution of judges”, which tasks were defined as giving the president advice on personal matters of judges, such as appointment, promotion, transfer or removal from the position held, results from the Art. 112 of the Constitution of the Republic of Lithuania. It should be noted, however, that while the establishment and role of this body have been explicitly specified in the content of the fundamental law, its composition and powers are specified in detail in the applicable law on courts¹⁸.

The Latvian judicial council (*Tieslietu padome*) is one of the institutions of judicial self-government. It was established under the amendment to the act on judicial power of December 15, 1992¹⁹ as a collegial body involved in the formulation of policies and strategies for the judicial system and committed to improving the way the judicial system is organized. Amendments limiting the existing extensive powers of the Minister of Justice and the President of the Supreme Court concerning individual judges and the entire judicial system were adopted on June 3, 2010 by the Latvian Parliament²⁰. Thus, the judicial council met the same year for its first session.

The model adopted in Estonia stands out against the background of Lithuanian and Latvian regulations. In 1991–2002, the judiciary was significantly influenced by the executive power²¹. The Act on the Legal Status of Judges and the Act on Courts, both adopted on October 23, 1991, sanctioned a judi-

¹⁷ M. Bobek, D. Kosař, op.cit., p. 1265.

¹⁸ *Republic of Lithuania Law, Amending the Law on Courts (Teismų Įstatymas)* 31 May 1994, No. I-480. The functioning of the Lithuanian Judicial Council is also regulated by the Regulation of Work of the Judicial Council, 24 February 2017, No. 13P-30-(7.1.2).

¹⁹ *Latvian law on Judicial Power* [Par tiesu varu] adopted 15.12.1992 (Latvijas Republikas Augstākās Padomes un Valdības Ziņotājs, 1/2, 14.01.1993; Diena, 9, 15.01.1993).

²⁰ J. Neimanis, op.cit., pp. 81–82.

²¹ J. Ginter, *Judicial Independence and/or(?) Efficient Judicial Administration*, “Juridica International” 2010, No. XVII, p. 111.

cial system in which the judicial administration modeled the German model, i.e. with the dominant position of the Minister of Justice. The extensive powers of the Minister of Justice were limited only after the reform was carried out in 2002. Ultimately, under the Courts Act of 2002²², the Council for Judicial Administration was established (*Kohtute haldamise nõukoda*)²³. Estonia has chosen a model of cooperation in the administration of the judiciary (model of court administration), in which the judicial council shares many powers with the Minister of Justice. According to the Estonian researcher T. Ligi, the limitation of the Minister of Justice's powers in favor of the newly created body was not so much due to the threat of violation of the independence of the judiciary, but was a consequence of the "influence of the EU on national legislation during the pre-accession period"²⁴. The adoption of this hybrid model is also due to the small size of the judiciary structures in the country.

III. Composition and Organization

Among the countries under discussion, the Lithuanian judicial council is the most numerous. It consists of twenty-three members, all of whom represent the judiciary²⁵. Due to their function, the members of the judicial council include the Chairman of the Supreme Court, the Chairman of the Court of Appeal, and the Chairman of the Supreme Administrative Court. The oth-

²² Estonian Court Act [*Kohtute seadus*] passed 19.06.2002 (RT I 2002, 64, 390).

²³ K. Joamets, *The Structure of Judicial System*, [in:] *The Law of the Baltic States*, eds. T. Kerikmae et al., Cham 2017, p. 13.

²⁴ T. Ligi, *Judicial Independence in Estonia*, [in:] *Judicial Independence in Transition*, "Beiträge zum ausländischen öffentlichen Recht und Völkerrecht (Veröffentlichungen des Max-Planck-Instituts für ausländisches öffentliches Recht und Völkerrecht)", vol. 233, eds. A. Seibert-Fohr, Berlin-Heidelberg 2012, p. 739.

²⁵ In the judgment of 9 May 2006, the Constitutional Court found the then mixed composition of the judicial council inconsistent with the Constitution of the Republic of Lithuania. In addition to judges, there were also persons appointed by the President, the Seimas Chairman, chairmen of parliamentary legislative and budget committees, and the Ministers of Justice and Finance. In the justification of the judgment, the Constitutional Court argued that only the judge panel guarantees the maintenance of purely professional and substantive premises in shaping the internal structure of this judicial authority. In turn, the participation of lower court judges was increased thanks to the reform carried out in 2012.

er judges are elected. The act provides for the division of seats according to the structure of the judiciary. Three judges are selected from each institution: the Supreme Court, the Court of Appeal, and the Supreme Administrative Court. Each of the regional courts has a representative in the Judiciary Council. District courts under the jurisdiction of the same regional court – elect one judge. One judge represents all five district administrative courts²⁶.

Candidates are appointed and elected during the General Assembly of Judges by representatives of the competent courts. It should be noted that a judge with at least five years of service may become a member of the judiciary council. The history of disciplinary measures exercised against a candidate constitutes a precondition for applying for membership in the council. The term of office of a member of the judicial council is 4 years, but the entrusted function may be performed again. Representatives of the legislative or executive power do not participate in any of the stages of completing the composition of the council.

The Latvian Judicial Council is composed of fifteen members²⁷. They are representatives of the judiciary, executive and legislative powers, and legal corporations. There are two categories of members: ex officio and members elected from among the judges. Permanent members form the majority in the council, and their term is correlated with the term of office. They are: the President of the Supreme Court, the President of the Constitutional Court, the Minister of Justice, the chairman of the parliamentary committee on legal affairs, the Prosecutor General, Chairman of the Latvian Council of Sworn Advocates, Chairman of the Latvian Council of Sworn Notaries and Chairman of the Latvian Council of Sworn Bailiffs²⁸. It is worth noting that while the total number of judges is nine, the number of elected judges is only seven, which is less than half of the composition of the council. One judge is selected by the plenary session of the Supreme Court, while the remaining six are selected by the Judicial Conference. The latter group includes three judges adjudicating in the district (city), two in regional courts, and one – in the

²⁶ T. Berkmanas, *The System of the Lithuanian Judiciary*, [in:] *The Law of the Baltic...*, p. 373.

²⁷ A. Buka et al., *Administration of Courts and Self-governance*, [in:] *The Law of the Baltic...*, p. 166.

²⁸ G. Borkowski, R. Michalczewski, *Skład i sposób wyboru sędziów do rad sądownictwa w krajach członkowskich Unii Europejskiej*, "Krajowa Rada Sądownictwa" 2017, No. 2, p. 40.

Land Registry offices. Other advisory entities may also participate in the work of the council including the ombudsman and the director of the judicial administration (or a person designated by each of them), as well as a representative of the legal community approved by the Latvian Academy of Sciences and representatives of judicial organizations.

The term of office of elected members is four years, and its shortening means the necessity to elect a new person for the vacated position. As a rule, such a selection is made at the next meeting of the Conference of Judges. Re-election to the board is possible, but for no more than two consecutive terms. Membership in the council cannot be combined with sitting in other institutions of the judiciary self-government, i.e. the Disciplinary Committee, the Qualification Committee, the Judicial Ethics Committee, as well as in the disciplinary court.

The President of the Supreme Court is each time appointed the chairman of the Latvian judicial council by virtue of his function. The deputy is selected from among the judges who sit on the council. All members make the choice. In the case of Lithuania, both the chairman and his deputy (as well as the secretary) are elected in a secret ballot by judges-members from among themselves. The relevant powers of attorney are granted for two years.

A special case is the Estonian Council for Judicial Administration (*Kohtute haldamise nõukoda*), which has only limited powers over the administration of the judiciary. Originally, the existence of the council was to strengthen the influence of judges of all instances on decisions made concerning the entire judicial system. It should be remembered that until 2002, that is until the reform, first and second instance were administratively subordinated to the Minister of Justice.

Although the courts in Estonia are undoubtedly independent and their functioning is enshrined in the Constitution and statutes, the judicial administration has still not been fully separated from the executive. So far, Estonia has not had a single special state body fully responsible for the organization of the judicial administration. To this day, the first and second instance courts are financed from the state budget through the budget of the Ministry of Justice. Courts of the first instance and courts of appeal are administered jointly by the Ministry of Justice and the Council for Administration of Courts.

Thus, the Council for Administration of Courts consists of 12 members, including the Chief Justice of the Supreme Court who is also chairman *ex officio*, as well as five judges elected by the Court *en banc* for three years, two deputies to the Estonian parliament – Riigikogu, a sworn advocate appointed by the Board of the Bar Association, the General Prosecutor or a public prosecutor designated by him and the Chancellor of Justice or a representative appointed by him. The Minister of Justice or a person delegated by him participates in the meetings of the council only with the right to speak but has no right to vote²⁹. The composition of the Estonian Council corresponds to the recommendations of the Consultative Council of European Judges, at least in terms of the number of judges and their election by other judges. According to T. Ligi, the presence of representatives of the executive and legislative authorities is not necessarily negative. Including them in the work of the authority “has more to do with the wish to increase awareness of the work and problems of the judiciary outside the court system and to avoid a situation in which the independence of the judiciary actually means the exclusion of the judiciary”³⁰.

IV. Powers and Competences

Both in Lithuania and Latvia³¹, the basic competences of the Council for the Judiciary include participation in the appointment of candidates for judicial positions and taking decisions affecting the course of the professional career of judges. The Lithuanian judiciary council gives the President of the Republic of Lithuania an opinion with justification on the appointment of judges, their promotion, transfer, or removal from their position, as well as the appointment and removal of court presidents from office and their deputies and heads of divisions, as well as the determination or change of the number of judges in the courts.

²⁹ Art. 40 para 1 Courts Act [Kohtute seadus] dated 19.06.2002 (RT I 2002, No. 64, item 390).

³⁰ T. Ligi, *op.cit.*, p. 754.

³¹ It is worth mentioning that the Lithuanian and Latvian judicial councils are members of the European Network of Councils for the Judiciary (ENCJ), and the Estonian Ministry of Justice has observer status.

Likewise, the Latvian Judicial Council presents the Parliament with a recommended total number of judges in national courts and determines the number of judges in each court, taking into account the recommendations of the Minister of Justice³². It also indicates the hierarchically competent court and the place of performance of duties for the newly appointed judge. Moreover, it proposes to the Latvian Parliament (Saeima) to transfer the judge to a higher or lower court or an equivalent court. The appointment of the chair of the district (city) court and the chair of the regional court for a term of five years and releases the chair of the court from office prematurely, as well as the transfer of a judge to a vacant judge's position to a lower or higher court of instances, is the exclusive competence of the Council of the Judiciary. It also awards the title of a retired judge³³.

None of the three discussed institutions decide on the disciplinary liability of judges. In each of the countries, there are separate specialized bodies of judicial self-government. However, the Lithuanian judicial council is the only one with the right to submit a motion to institute disciplinary proceedings against a judge. It is also worth emphasizing that it influences the personal shape of the Judicial and Disciplinary Ethics Committee and the Judge of Honour, which are entrusted with tasks related to the enforcement of disciplinary liability of judges.

The Lithuanian and Latvian councils have the power to organize training for judges. Thus, the Lithuanian judicial council approves the programme and regulations for organizing training courses for judges. Moreover, it accepts annual professional development plans for judges and requirements for lecturers conducting classes with judges. It is no different in the case of the Latvian Judicial Council, which approves the basic rules for the specialization of judges and the procedure for verifying their qualifications, as well as the training programme for judges and court employees according to the recommendation of the President of the Supreme Court or the Minister of Justice³⁴. In Estonia, the Training Council is responsible for judicial training.

³² Art. 32 para 3 Latvian Law on Judicial Power.

³³ K. Wygoda, M. Abu Gholeh, *Rada Sądownictwa na Łotwie*, "Przegląd Prawa i Administracji" 2019, vol. 119, pp. 107–108.

³⁴ Cf. P. Osóbka, *System konstytucyjny Łotwy...*, p. 128.

The Lithuanian and Latvian judicial councils make many organizational decisions relating to the judicial system. The Lithuanian judicial council convenes ordinary and, if necessary, extraordinary sessions of the General Assembly of Judges. It hears the report of the National Court Administration on the activities it is taking. Every year, by March 31, it publishes a report on the activity of the courts for the previous year on the official website of the National Court Administration. The Lithuanian Council of the Judiciary sets up permanent and ad hoc committees and approves their regulations. It approves the rules of operation of the courts (including the provisions on the allocation of cases and the formation of trial formations) and participates in resolving other administrative cases in courts. It creates a permanent commission for the evaluation of the judicial activity. It settles complaints relating to the results of judges' performance appraisal. It approves the model of the structure of the judiciary at the level of district, regional, and district of administrative courts. It prepares and approves proposals of draft investment programmes and proposals of courts' budgets, and then presents them to the government. On the other hand, among the administrative powers of the Latvian Judicial Council, it is important to provide opinions on the territorial structure of courts and their location, as well as express opinions on their budgeting. The Latvian Council of the Judiciary prepares the rules of the Conference of Judges, convenes its meetings, and indicates the matters that should be discussed. It approves the rules of procedure for the Judicial Ethics Committee and the Qualification Committee. It hears the annual report on the activities of the Latvian Judicial Administration. It develops guidelines on other matters related to the functioning of the courts. Moreover, the Latvian Ministry of Justice consults the Judicial Council before sending the draft budget of the judicial system to Parliament.

One of the most important competences of the Latvian Council of the Judiciary is the right to apply to the Constitutional Court to review the compliance of normative acts with the Basic Law in so far as they concern matters related to the judiciary³⁵. Moreover, the Latvian judicial council issues opinions on judicial reform and laws. The Lithuanian judicial council is similar in this respect, and it has the power to present a reasoned opinion on legislative matters to the government (selected ministries) or the President.

³⁵ Ibidem, p. 125.

The Estonian Council for Administration of Courts is an opinion-forming and approving authority, lacking any conclusive powers. The Council's competences include approving the determination of the local jurisdiction of courts, the structure of courts, the precise location of courts and judicial chambers, as well as the number of judges in the courts. Apart from that, the Council must give consent to the appointment and premature dismissal of court presidents and defining the rules of procedure of courts. It is within the Council's jurisdiction to authorize the determination of the number of lay judges and candidates for judicial posts. Additionally, it provides the opinion on the release of a judge, on the candidates for a vacant position of a justice of the Supreme Court, and the principles of the formation and amendment of annual budgets of courts. Within the Council's jurisdiction shall be to hold a preliminary discussion on the review of courts administration, administration of justice, and the uniform application of law, which is to be presented to the parliament by the Justice of the Supreme Court. It also discusses other matters brought for discussion by the Minister of Justice or the Chief Justice of the Supreme Court³⁶.

V. Final Remarks

Not only is it impossible to determine the existence of a uniform model of judicial councils operating in the Baltic states, but it is even difficult to find significant similarities between them. There are more divisions than connections between them. The time horizon of their creation, political position, composition, and powers are different. A common feature of the discussed institutions is the fact that they are one of the bodies of the judicial self-government.

The judiciary council operates the longest in Lithuania and the shortest in Latvia. Only in the case of Lithuania one can speak of constitutional authority, and in the case of the other two Baltic states – only a statutory one. There is no doubt that in all the cases discussed, at least half of the board members are judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary. Only in the case of Lithuania, this body is entirely composed of judges, in the other two countries the number of representatives of the judicature in this body is at least half the number of

³⁶ M. Dąbrowski, *Rada do spraw Administracji Sądów w Estonii*, "Przegląd Prawa i Administracji" 2019, vol. 119, pp. 43–44.

all members. In Latvia, they are 9 out of 15, and in Estonia 6 out of 12. The election of members to judicial councils is transparent and does not raise any doubts. The court presidents and vice-presidents are not excluded from becoming members of the judicial council. Latvian and Lithuanian judicial councils are equipped with decision-making competences and have considerable powers in matters relating to the career development of judges. While the Estonian one possesses merely advisory powers, it has no significant influence on matters relating to the election of judges, appointment, promotion, transfer, or removal from office.

The most important conclusion, however, is that in none of the discussed Baltic states the independence of the judiciary and the independence of judges do not seem to be at risk, and the existence of judicial councils has been subordinated to this supreme goal.

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