THE SUPREME COURT OF THE REPUBLIC OF LATVIA

2008

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Photo by Target Studio, Leta, the Supreme Court.

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INTRODUCTION

On 15 December 1992 the Supreme Council of the independent Republic of Latvia passed the law "On Judicial Power", restoring a three-instance court system in Latvia in line with the courts of Western European countries. Once again, regional courts were established, with the Senate as cassation instance and chambers formed as appellate instances within the Supreme Court. In its current form, the Supreme Court started operating in October 1995, when the Plenary Session of the Supreme Court confirmed the first judges and chairs of the new units.

This brochure is the first detailed overview of the Supreme Court of the restored Republic of Latvia, published in a separate issue. It explains the place and role of the Supreme Court in the Latvian judicial system, presenting its basic functions in greater detail – hearing cases by appeal and cassation procedures, and developing uniform case law.

The brochure is a guide to the procedure for hearing cases in the Supreme Court departments and chambers, emphasising basic principles of hearing cases and explaining access to information.

The Latvian Supreme Court continues to work on objectives set by the Senate and builds on the original Senate established in 1918, with 19 December 2008 being a significant date, marking the 90th anniversary of the Senate. A separate section is devoted to Supreme Court history, starting from the day of the Senate's establishment until integration of the restored Supreme Court of Latvia within the European judicial system.

Information was last updated at the beginning of 2008 and shows the judicial system and current litigation procedures. However in the *Saeima* (the Latvian Parliament) a new draft law has long been under way, providing an option to change the court system in operation for over fifteen years by transforming regional courts solely into appellate court instances, leaving the Supreme Court solely as the cassation instance. If the draft becomes law, then the need will arise for a new guide to the Latvian judicial system. In that case, the information published in this brochure will become historical evidence of the activity of the Latvian Supreme Court during a significant era of establishing and developing an independent judicial system.

January, 2008

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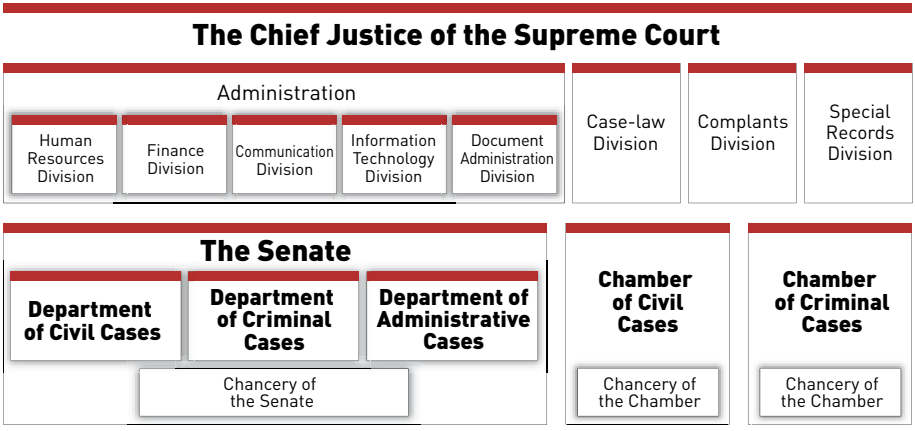
Senators and judges of the Supreme Court in December 2007. *Front row, from left: Ruta Zake, Edite Vernusa, Skaidrite Lodzina, Valerijans Jonikans, Gunars Aigars, Andris Gulans, Pavels Gruzins, Ivars Bickovics, Irena Vinksno, Aiva Zarina, Valda Eilande, Vilnis Vietnieks. Second row, from left: Marite Zagere, Anda Vitola, Mara Katlapa, Ojars Druks-Jaunzemis, Rita Saulite, Anita Nusberga, Inguna Radzevica, Ausma Keisa, Ramona Nadezda Jansone, Vanda Cirule, Raimonds Gravelsins, Anita Cernavska. Third row, from left: Roberts Guntis Namatevs, Peteris Opincans, Inara Garda, Eduards Pupovs, Zigmants Gencs, Ilze Skultane, Jautrite Briede, Veronika Krumina, Dace Mita, Rudite Vidusa, Voldemars Cizevskis, Ervins Kuskis, Peteris Dzalbe, Inta Lauka, Aivars Keiss*

The Structure of the Supreme Court



Full court. *Usually cases in the Senate are heard by three senators, but in particular cases pending a unanimous decision of the college of senators a case may be transferred for hearing in full court by seven senators*

Court session of the Chamber of Criminal Cases. *During a court session, the accused detained by applying security measures are seated behind a barrier*

International conference. *The conference «Judges and advocates in interaction: commonalities and differences in the Latvian and American legal systems» was organized in 2005. In the courtroom of the Senate of the Supreme Court the participants had a chance to observe court proceedings chaired by Justice Wendel Mortimer (US) and Gunars Aigars, Chair of the Chamber of Civil Cases of the Supreme Court, and to learn about the principles of conducting proceedings in the US and the work of a sworn jury*

Pronouncing judgment. *As judges enter or leave the courtroom, those present stand up. When judgment is pronounced, those present remain standing.*

I

THE SUPREME COURT IN THE LATVIAN JUDICIAL SYSTEM

Article 82 of the Constitution of the Republic of Latvia:
In Latvia, court cases shall be heard by district (city) courts, regional courts and the Supreme Court, but in the event of war or a state of emergency, also by military courts.

The law «On Judicial Power», Article 1, Section 3:
Judicial power in the Republic of Latvia is vested in district (city) courts, regional courts, the Supreme Court and the Constitutional Court, but in the event of war or a state of emergency, also by military courts.

An independent judicial authority exists in Latvia alongside legislative and executive authority.

The Supreme Court forms part of the independent judicial system. In the three-instance court system of Latvia, the Supreme Court operates as the third or highest level court. Under the law it hears cases as both the second (appellate) and third (cassation) instance.

The concepts of «court level» and «court instance» are closely related but not identical. Since 1995, three levels of court have operated in Latvia. The first of these is the district (city) level; the second is the regional court level; while the Supreme Court forms the third level. The existing three-tier court system provides for appealing decisions from first instance courts and reviewing those decisions at appellate and cassation instances.

Administratively, the Supreme Court is not related to district (city) or regional courts. The Chief Justice and other Judges of the Supreme Court may not control or instruct judges of lower instance courts about hearing particular cases, or on organisational matters. The link between courts at all levels is manifest only functionally or procedurally by accepting and hearing appealed or disputed cases from courts of lower instance.

Jurisdiction of the Supreme Court

The basis of Supreme Court authority is laid down in the Latvian Constitution, in the law "On Judicial Power", and in procedural laws – the Civil Procedure Law, the Criminal Procedure Law, and the Administrative Procedure Law.

Basic functions of the Supreme Court

- Administration of justice at appellate and cassation instance, in line with the principles of fairness and the rule of law, as well as timeliness. Decisions of the Supreme Court are final and may not be appealed.
- Development of uniform case law.

Additional functions

- On the basis of the Investigatory Operations Law, examining the legality and justification of special investigations.
- Examining citizens' complaints in relation to cases.

The Supreme Court consists of two separate court instances:

- The Senate. This hears cases via the cassation procedure and consists of three departments – Civil Cases, Criminal Cases, and Administrative Cases.
- Two judicial chambers. These act as appellate instance courts – the Chamber of Civil Cases, and the Chamber of Criminal Cases.

The law replacing the previous hearing of cases at cassation instance as a court of second instance came into effect on 15 October 1995. The Departments of Civil and Criminal Cases were established on 3 October 1995, while the Department of Administrative Cases commenced activity on 6 February 2004.

Hearing cases

In 2000 the Supreme Court reviewed 2 334 cases, in 2001 – 2 555 cases, in 2002 – 3 364 cases, in 2003 – 3 249 cases, in 2004 – 3 543 cases, in 2005 – 3866 cases, in 2006 – 4 311 cases and in 2007 – 3 962 cases. The proportion of civil cases is increasing: 56 % of all cases reviewed in 2007 were civil, of which 1 267 were reviewed by the Chamber of Civil Cases and 958 by the Department of Civil Cases. The Department of Administrative Cases reviewed 658 cases, the Department of Criminal Cases 739, and the Chamber of Criminal Cases 340.

Gvido Zemribo, the first Chief Justice of the restored Latvian Supreme Court in 1993:

«I am flatly against the fact that very often judicial power is called the third power, so that the first power is considered to be the legislature, the second the executive and the third the judiciary, with these powers ranking not horizontally alongside one other, but vertically one above the other. It should be understood that these three powers in a law-governed state are mutually connected, mutually complementary and, in case of necessity, also operating as checks on each other. Just as in a human body we cannot determine whether the heart, lungs or brain is more important. Every body has its own functions; however they cannot act independently. This is also true of the state body.»

The Senate

As the final and highest court instance in the country, the Senate of the Supreme Court is the court of cassation instance for all cases heard by district (city) courts, regional courts, and Court Chambers. The Senate of the Supreme Court is the court of first (and only) instance for cases concerning decisions of both the Council of the State Audit Office and of the Central Election Commission.

The Senate consists of the Chief Justice of the Supreme Court and Senators - Judges of the Senate. The composition of the Senate is subject to approval by the Plenary Session of the Supreme Court, which also elects the Chairs of Senate Departments. The term of office of Senate Department Chairs is five years.

Chair of the Department of Civil Cases, **Valerijans Jonikans**

*Chair of **the Department of Civil Cases,***
Valerijans Jonikans, was elected in 2007. Previously a Judge of the Supreme Court from 1987 until 1993 and again from 1999, in 2004, he was elected Chair of the Department of Administrative Cases.

The Department's nine other Senators are:
Ojars Druks-Jaunzemis, Zigmants Gencs, Skaidrite Lodzina, Roberts Guntis Namatevs, Rita Saulite, Ilgars Zigfrids Septeris, Edite Vernusa, Ruta Zake, and Marite Zagere.

Chair of the Department of Criminal Cases, **Pavels Gruzins**

*Chair of **the Department of Criminal Cases,***
Pavels Gruzins, elected in 1995 and re-elected in 2000 and 2005, had been a Judge of the Supreme Court since 1986.

The Department's five other Senators are:
Voldemars Cizevskis, Peteris Dzalbe, Valda Eilande, Arturs Freibergs, and Vilnis Vietnieks.

Chair of the Department of Administrative Cases, **Veronika Krumina**

*Chair of **the Department of Administrative Cases,***
Veronika Krumina, elected in 2007, had been a Judge of the Supreme Court since 2005.

The Department's six other senators are:
Jautrite Briede, Dace Mita, Janis Neimanis, Normunds Salenieks, Ilze Skultane, and Rudite Vidusa.

Court Chambers

Court Chambers are courts of appellate instance for cases heard by regional courts as courts of first instance. A Court Chamber consists of the Chair and Judges of the Supreme Court of the Chamber. The structure of Court Chambers is approved by the Plenary Session of the Supreme Court, which also elects Chairs of Court Chambers.

***The Chamber of Civil Cases** is chaired by Gunars Aigars. Elected in 1995 and re-elected in 2000 and 2005, he had been a Judge of the Supreme Court since 1990.*

The Chamber's eleven other Judges are: Anda Briede, Vanda Cirule, Anita Cernavska, Inara Garda, Raimonds Gravelsins, Mara Katlapa, Aivars Keiss, Inta Lauka, Irena Vinksno, Anda Vitola, and Aiva Zarina.

The Chamber of Civil Cases is chaired by **Gunars Aigars**

***The Chamber of Criminal Cases** is chaired by Ivars Bickovics. Elected in 1996 and re-elected in 2002 and 2007, he had been a Judge of the Supreme Court since 1992.*

The Chamber's ten other Judges are: Ramona Nadezda Jansone, Ausma Keisa, Ervins Kuskis, Andrejs Lepse, Anita Nusberga, Peteris Opincans, Anita Polakova, Ludmila Polakova, Eduards Pupovs, and Inguna Radzevica.

The Chamber of Criminal Cases is chaired by **Ivars Bickovics**

Data: January, 2008

Judges

The law "On Judicial Power" states that only Latvian citizens, highly qualified and fair-minded lawyers, may work as judges. Judges enjoy the rights and freedoms that the law grants to citizens. In using these rights and freedoms, judges must not compromise the dignity and honour of the court and judges or the impartiality and independence of the Court. A judge may not be involved in any party or other political organisations, nor may a judge go on strike.

A candidate for the office of Justice of the Supreme Court may be:

- a district (city) court or a regional court judge who meets the qualifying criteria;
- a person with at least 15 years service as a sworn advocate, prosecutor, or law lecturer at a higher education institution who passes a qualifying examination;

  An exception is the Department of Administrative Cases, established as late as 2004. Until 1 February 2009, appointees as Senator of the Department of Administrative Cases must be at least 30 years of age with a higher legal education, must have served for at least five years as a judge, law lecturer at a higher education institution, advocate, prosecutor, or clerk and must pass a qualifying examination.

A candidate for the office of Judge of the Supreme Court is nominated by the Chief Justice, pending an opinion by the Judges Qualifications Committee.

Supreme Court Judges are confirmed in office by the *Saeima*, for an unlimited term.

The maximum age for holding office is 70. The Chief Justice may extend the period for holding office as a Supreme Court Judge for up to five years, subject to a favourable opinion from the Judges Qualifications Committee. If a Judge reaches the maximum age for holding office while hearing a case, their authority to act is preserved until the hearing is completed.

The Chief Justice or the Minister of Justice may recommend that the *Saeima* grant the title of Judge Emeritus to a retired Supreme Court Judge who has worked with integrity. During the temporary absence of a Senator or a Supreme Court Judge, the Chief Justice may assign a Judge Emeritus to take their place.

Article 83 of the Constitution of the Republic of Latvia

Judges shall be independent and subject only to the law.

Ethical Code for Latvian Judges

Canon 1.
Judges shall respect their office, the independence of the judiciary and the integrity of the court.

Canon 2.
Judges shall avoid impropriety and the appearance of impropriety in their activities.

Canon 3.
Judges shall perform their duties of office impartially and diligently.

Canon 4.
Judges shall regulate their extra-judicial activities so that that no conflict arises with their judicial duties.

Canon 5.
Judges or judicial candidates refrain from political activity.

Ethical Code for Latvian Judges adopted by the Conference of Judges of the Republic of Latvia on April 20, 1995

Judges enjoy the following immunity

- A criminal case against a judge may be filed only by the Prosecutor General. A judge may not be detained or subject to criminal liability without consent of the *Saeima*. Decisions concerning detaining, arresting, or searching a judge must be taken by a Supreme Court Judge specially authorised for that purpose.
- Administrative sanctions may not be applied to judges, who may not be arrested under administrative procedures.
- A judge is not financially liable for damages incurred by a party in a case as a result of an unlawful or unfounded court judgment. Instead, damages are paid by the State where appropriate.

A judge may only be dismissed from office by the *Saeima* pending a proposal of the Judicial Disciplinary Committee if convicted of a criminal offence and the judgment of the court has come into legal effect, or on the basis of a decision of the Judicial Disciplinary Committee.

If disciplinary proceedings are initiated against a Supreme Court Judge, the Chief Justice may, if recommended by the Judicial Disciplinary Committee, suspend the Judge from office pending a decision *via* disciplinary proceedings. If a Supreme Court Judge is subject to criminal legal process, the Chief Justice suspends the Judge from office until the criminal case is over.

Symbols of Judicial Power

Judges' Oath

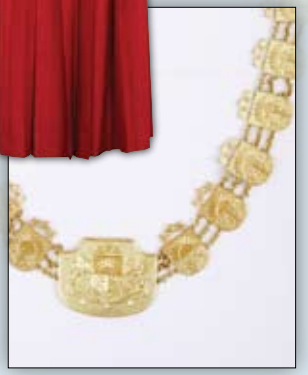
Upon taking office a judge swears the following oath: "I, ___, in undertaking the duties of a judge am aware of the responsibility entrusted to me and solemnly swear to be honest and fair, to be loyal to the Republic of Latvia, to always endeavour to determine the truth, never to betray it, and to adjudge strictly in accordance with the Constitution and the laws of the Republic of Latvia". A judge's oath is accepted by the President. Following acceptance, the President issues the judge with the insignia of office.

Hammer

Internationally recognised symbol of the judiciary. Supreme Court Judges receive the hammer as a symbol of office during the Plenary Session after their appointment to a specific unit of the Supreme Court. The hammer bears the Judge's surname and initial.

Judicial Robe

From the Greek mantio or cover, coat. Judges fulfil their duties attired in the robe and wearing the insignia of office. The robe of Supreme Court Judges is made from carmine-coloured cloth. Judges wear their robes during court hearings, Plenary Sessions of the Supreme Court, and on solemn occasions.



Insignia of Office

A judge's insignia consist of a chain of office made up of 24 small coats of arms and a central plate representing the large coat of arms of the Republic of Latvia all forged in gold-coloured metal. The separate parts of the chain are connected with metal rings of the same material. Judges wear their insignia of office together with the robe.

The Law "On Judicial Power", Section 11. Prohibition of interference with the Work of a Court

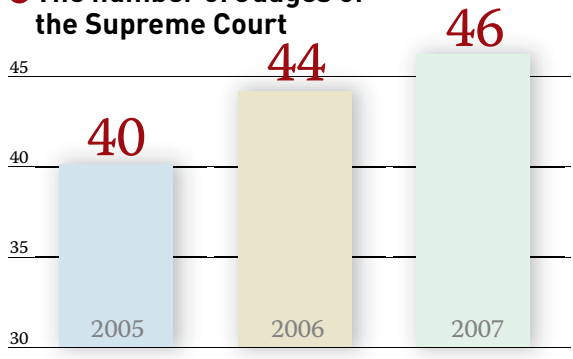
(1) State institutions, public and political organisations and other legal and natural persons must respect and observe the independence of the court and the immunity of judges.

(2) No restriction, pressure, influence, direct or indirect threats or other unlawful interference with a court hearing is allowed, irrespective of the goal or intention. Demonstrations and picketing on court premises are prohibited pursuant to procedures provided for in legislative enactments. Influencing judges or lay judges, or interfering with a court hearing is a punishable offence.

(3) No one may require from a judge an account or explanation as to how a particular case was heard, or disclosure of views expressed during deliberations.

The total number of Supreme Court Judges, as well those in the Senate and Court Chambers, is determined by the *Saeima* upon recommendation of the Chief Justice. In 2007 the number set by the *Saeima* was 53. However, due to lack of space only 23 senators and 23 justices then held office.

The number of Judges of the Supreme Court



Court Staff

Judges'assistants. With workloads mounting, judges' assistants play an ever-increasing role in the work of the courts. The common practice in the Senate Departments and the Chamber of Criminal Cases is for a Judge to have one specifically appointed assistant, while the Chamber of Civil Cases employs a joint staff of judges' assistants.

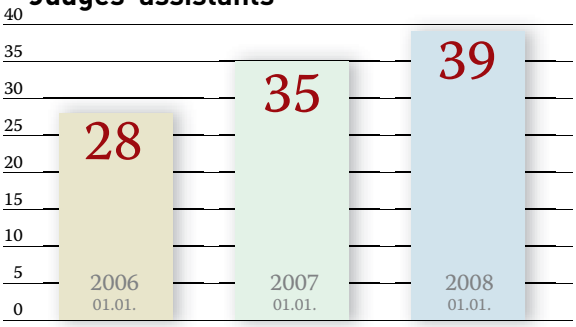
Judges' assistants examine and prepare cases for hearing. Their task is to note significant factual and legal aspects of the case, to study legislation, case law, legal research literature, and other materials. Assistants prepare draft decisions with guidance from Judges.

After court hearings, judges' assistants enter decisions into the court information system. They also keep track of changes in legislation and prepare opinions on draft laws.

Length of service in the post of judge's assistant counts towards time served in the legal profession.

Chancery employees. The Supreme Court's three chanceries support the Senate and Chambers. These are: the Chancery of the Senate, the Chancery of the Chamber of Civil Cases, and the Chancery of the Chamber of Criminal Cases. The work of chanceries is organised and managed by the Head of Chancery, supervising the work of **court secretaries, court session secretaries**, and **interpreters.**

The Number of Supreme Court Judges' assistants



Elina Kristopane,
Head of Chancery of the Senate since 2006

Sarmite Puke,
Head of Chancery of the Chamber of Civil Cases since 2000

Daina Zomerfelde,
Head of Chancery of the Chamber of Criminal Cases since 1995

Zigrida Mita,
Head of the Case-law Division. Since 2001 Head of the Plenary Session and Case-law Division, transformed in 2005 into the Case-law Division

Developing uniform case law

The Supreme Court aims to develop unified case law or jurisprudence, and to promote legal thought and national law. To reach this goal, the Supreme Court works in three directions:

- establishing and maintaining a case law database;
- analysing case law concerning topical law issues;
- arranging seminars for judges of regional and district courts.

The Case-law Division, established in 2005 on the basis of the Division of the Plenary Session and Case-law of the Supreme Court, compiles court decisions, selects, processes, and publishes court decisions important for facilitating harmonisation, research, and development of case law in the case law database.

The case law database of the Court Information System was established in 2006, and 461 Senate decisions had been published by February, 2008. The case-law database is developed by the Supreme Court, while the procedure for selecting and processing information to be included in the database is determined by the Chief Justice after clearing it with the Ministry of Justice. Court decisions at all levels are included in the database, this being the first step in establishing case law. The goal is to help judges to hear similar cases, to decrease the time for dealing with cases, as well as to facilitate development of uniform and stable case-law. Currently the database is available only to users of the Court Information System, but foreseeably it will be available to every citizen. Recent decisions of the Senate are also published on the Supreme Court web site.

The Case-law Division compiles court decisions and studies topical legal issues, in cooperation with Supreme Court Judges and visiting experts. Compilations of court decisions are publicly available: published on the Supreme Court web site and in the journal *Jurista Vards*. In order to strengthen the importance of compilations of court decisions and to promote them as an advisory tool, the Supreme Court discusses topical legal issues and case law matters and expresses its opinion in assembly, with participation from Supreme Court Judges of the relevant legal disciplines.

Collections of Senate Rulings

Rulings of the Senate in civil and criminal cases have been published since 1996 and from 2005 in administrative cases as well. The collections include Senate decisions, giving an insight into tendencies in Senate case law of the previous year, such as the latest decisions and development of existing decisions, as well as decisions theoretically and practically important for case law development. The 2006 collection of rulings includes 130 published decisions of the Senate Department of Civil Cases, 101 decisions of the Department of Criminal Cases, and 85 decisions of the Department of Administrative Cases.

The Supreme Court organises seminars for district and regional court judges to discuss compilations of court decisions on particular legal issues and topical case law as well as theoretical issues. Compilations of court decisions are disseminated to all courts, and sent to the Ministry of Justice and the Prosecutor General. When court decisions or compilations of court decisions give rise to conclusions about required legislative amendments, the Case-law Division submits proposals to the Chief Justice.

Examining complaints

A number of people write petitions and complaints requesting the Supreme Court to examine different issues related to judicial matters. In 2006 the Supreme Court received approximately 3 000 petitions and complaints, while in 2007 these exceeded 3 800. The majority were about the conduct and judgments of judges at courts of different instances. Increasing workload led to establishing a Complaints Division in March, 2007. The Division was created so as to hear citizens, issuing reasoned answers to petitions and complaints, thus facilitating communication between the public and the Supreme Court. The Complaints Division is staffed by experienced legal professionals, who study petitions, analysing and organizing best use of relevant information with the aim of strengthening the rule of law. The work of the Complaints Division is supervised by Vaira Avotina.

Box for complaints and petitions.
In order to make it easier for citizens to submit complaints and petitions to the Supreme Court, the lobby next to the entrance contains a mailbox for documents. This practice was taken over from the Supreme Court of Spain

In 2007, the Complaints Division reviewed 1601 complaints on various issues and 20 applications on issues of rehabilitation. 157 complaints were passed to other authorities and officials – the Ministry of Justice, the Court Administration, the Prisons Administration, the Board of Attorneys, officials involved in criminal procedures.

Content of complaints focused on:

- **the work of judges – 209;**
- **filing a protest under Articles 483, 484 of the Civil Procedure Law – 224;**
- **newly-discovered evidence – 5;**
- **providing legal advice – 5;**
- **previous responses – 44;**
- **hearing criminal cases under Sections 62, 63 of the Criminal Procedure Law – 102;**
- **explanation of judgments in criminal cases – 45;**
- **violations of administrative procedure – 48;**
- **other matters – 979.**

The "other matters" section includes complaints of delay in reviewing cases, on the conduct of staff, on sentences imposed in criminal cases, on bail terms, on the conduct of law enforcement officers, on rulings of the Senate. It also includes applications from individuals who are in the habit of writing complaints which in many cases are unintelligible.

Results of reviewing these applications: 155 complaints found proved, 35 protests filed on existing court rulings, 288 complaints rejected, explanations provided in 901 cases, and disciplinary action launched regarding the conduct of six judges.

Managing and supporting the Supreme Court

Plenary Session

All Supreme Court Judges convene in Plenary Session, the assembly of Judges.

The Plenary Session of the Supreme Court:

- establishes Departments of the Senate and Court Chambers and approves their composition;
- nominates a candidate for the post of Chief Justice of the Supreme Court, for approval by the *Saeima;*
- elects Chairs of the Senate Departments and Court Chambers, and two Deputy Supreme Court Chief Justices;
- advises whether grounds exist for removing the Chief Justice or dismissing the Prosecutor General from office;
- elects from among the Supreme Court Judges one member of the Central Elections Commission and, if appropriate, decides on their withdrawal;
- nominates two candidates for the post of Judge of the Constitutional Court from among the judges of the Republic of Latvia;
- discusses and assesses activity reports of the Chief Justice, the Senate Departments, the Court Chambers, the Case-law Division, and the Administration;
- discusses topical questions on interpreting legislation.

The Plenary Session is convened and chaired by the Supreme Court Chief Justice, or if absent by the Deputy Chief Justice in place. The Prosecutor General may participate in the work of the Plenary Session. Staff of the Supreme Court, Chairs and judges of district, city, and regional courts, and the Minister of Justice may be invited to participate in the Plenary Session if appropriate in light of issues to be discussed. The Chief Justice decides who is to be invited. Plenary Session assemblies are open to visitors. Particular issues may be heard behind closed doors, if the Plenary Session considers this necessary.

Constitutional Court Judges elected by the Plenary Session of the Supreme Court

Aija Branta
In office since 25 March 2004. Formerly Judge of the Chamber of Criminal Cases of the Supreme Court.

Uldis Kinis
In office since 5 March, 2007. Formerly Chair of the Kuldiga District Court.

Andrejs Lepse
In office from 1996 until 2006. Formerly Chair of the Supreme Court Chamber of Criminal Cases, in 2007 appointed Judge of the Supreme Court Chamber of Criminal Cases.

Ilze Skultane
In office from 1996 until 2004. Formerly Chair of the Bauska District Court, in 2004 appointed Senator of the Supreme Court Department of Administrative Cases.

The Plenary Session may decide on issues under discussion if more than half of the duly appointed Supreme Court Judges are present. The Judges participate in Plenary Sessions wearing their robes and insignia of office.

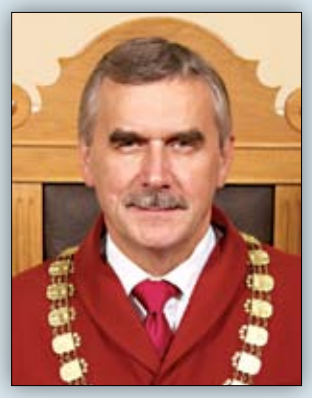
The Plenary Session decides and votes on issues. Votes, which are reserved for Supreme Court Judges, may be cast "for" or "against", with no abstentions allowed. A Plenary Session decision is valid if the majority of all Judges have voted in favour.

Plenary Session decisions are sent to the Prosecutor General and others on instructions of the Chief Justice, and are published on the Supreme Court web site.

The Plenary Session elects a Plenary Session secretary from among its members. Since 19 March 19 1999, the Secretary of the Supreme Court Plenary Session has been Valda Eilande, Senator of the Department of Criminal Cases.

Senator Valda Eilande, elected Supreme Court Member of the Central Elections Commission in 1994, re-elected in 1996, 1999, 2003, and 2007.

The Plenary Session of the Supreme Court in September, 2007.
Judges elected the Chair of the Department of Civil Cases



Andris Gulans, Chief Justice of the Supreme Court

Approved as Chief Justice for two terms: 1994-2001 and 2001-2008.

Born 1952 in Aizkraukle district, Zalve. Graduated 1979 from the Latvian State University Faculty of Law. With the Supreme Court since 1994, has been a Judge of the Chamber of Criminal Cases. Formerly Judge of the Riga City Maskava District People's Court, Chair of Latgale Suburban Court, Deputy Minister of Justice, sworn advocate.
Participant in exchange programs on judicial matters in France, the US, Germany, and Spain, completed a course in «European Union law for Justices of the Supreme Courts" in Denmark and in-service training at the Supreme Court of Sweden.
Chair of the Judicial Disciplinary Committee, member and lecturer of the Judicial Training Centre, member of the working group for drafting law on the court system, member of the Association of Judges.
In 2005 presented with Latvian State award of the Three Star Order.

Chief Justice

The work of the Supreme Court is managed by the Chief Justice of the Supreme Court, nominated by the Plenary Session from among the Judges in office and appointed by the *Saeima* for seven years. If the Chief Justice reaches the maximum age for holding office (70) during the term of office, the *Saeima* may extend the term of office for another five years upon recommendation of the State President.

The Chief Justice may be dismissed from office by the *Saeima* prior to expiry of the term, upon the recommendation of the Judicial Disciplinary Committee, on the basis of an opinion of the Plenary Session of the Supreme Court.

The Chief Justice chairs meetings of the Plenary Session, and may chair assemblies of the Senate.

The Chief Justice may not instruct a judge about hearing a particular case, or request information or reports from a judge concerning a heard case and opinions expressed during drafting a judgment.

The Chief Justice chairs the Judicial Disciplinary Committee. Under competence deriving from the Judicial Disciplinary Liability Law, the Chief Justice may request explanations from a judge about a heard case, with a view to deciding whether cause exists for disciplinary proceedings.

The Chief Justice advises the *Saeima* on appointment to office of the Prosecutor General, and deals with other matters from the Law on the Office of the Prosecutor associated with appointment, withdrawal, or dismissal of the Prosecutor General.

Under the Law on Advocacy, the Law on Bailiffs, and the Law on Notaries, the Chief Justice accepts the oaths of advocates, bailiffs, and notaries on taking up their duties.

From Andris Gulan's speech at the 15th anniversary of the Supreme Court:

"The Supreme Court has developed together with the State and its people. In a relatively short period we had to face processes of sophisticated political, economic, social and intellectual change. At the same time it has been a period of ordeal and challenge. However, in general we have pursued a natural course of development, where the most burdensome and revolutionary struggles had to be won in our minds, but not as regards the principles of judicial power of a democratic state recognised over centuries, since we inherited these from our predecessors of the former Senate of Latvia."

Deputy Chief Justice

The Supreme Court Chief Justice is assisted by two Deputy Chief Justices, elected by the Plenary Session for a term of seven years from among the Chairs of the Senate Departments and the Chairs of the Court Chambers.

During temporary absence, the Chief Justice may assign a Deputy Chief Justice as a replacement. In turn, during temporary absence of the Deputy Chief Justice, the Chief Justice may assign a Judge of the Supreme Court as a replacement.

Pavels Gruzins

Elected Deputy Chief Justice of the Supreme Court in 1990, re-elected in 1995 and 2002. Member of the Judges' Qualification Committee. Participant in working groups drafting the Criminal Law and the law On Amnesty.
Born in 1946 in Madona district, Laudona. Graduated in 1977 from the Latvian State University Faculty of Law. With the Supreme Court since 1986. Formerly Chair of Limbazi District People's Court.

Gunars Aigars

Elected Deputy Chief Justice of the Supreme Court in 1995, re-elected in 2002. Chair of the Judges' Qualification Committee. Participant in working group drafting law "On Judicial Power", headed working group drafting the Civil Procedure Law.
Born in 1939 in Riga. Graduated in 1963 from the Latvian State University Faculty of Law. With the Supreme Court since 1990. Formerly Chair of Liepaja District Court, has also worked as an advocate.

Fasces

The Internationally recognised symbol of judicial authority – a bundle of sticks with a hatchet head, encircled with oak branches. Until 1940 this was the central element of the chain of a judge of the Republic of Latvia. The Supreme Court Length of Service badge carries this symbol and was approved by the State Heraldry Committee in 2005, marking the 15th anniversary of restoration of the Court's activity. The badge is awarded to judges and Court staff for long and dutiful service to the court. Badges are of four types: for 10, 15, 20 and 25 years of service to the Supreme Court.

Anita Kehre,
Head of the Supreme Court Administration since its establishment in 2005 and Advisor to the Chief Justice on Public Relations Issues

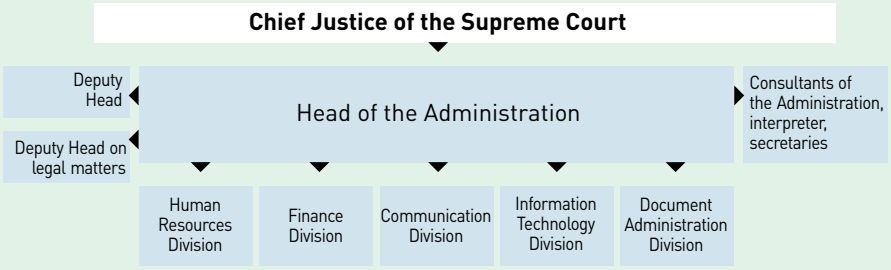
Administration

The Supreme Court is a central state authority, and alongside the duties of a Judge the Chief Justice also runs the court's organisational and financial matters. Funds for the Supreme Court are allocated directly from the State budget, while the Court submits accounts to the Ministry of Finance, the State Treasury, and the State Audit.

The Supreme Court Administration is a new unit established in January 2005 by order of the Chief Justice. Its legal basis is set out in Section 50[1] of the law "On Judicial Power". The Administration manages Supreme Court financial matters, handles material and technical supplies, takes care of human resources including management and training, keeps records, communicates with the public, and engages in international cooperation.

The Head of Administration is appointed and released from office by the Chief Justice. The Head of Administration is Anita Kehre, with Sandra Lapina as Deputy Head since 2006 and Ilze Leja as Deputy Head on legal matters since 2007.

Structure of the Administration



To support the work of the Supreme Court, the Administration deploys five units.

The Human Resources Division, set up in 2008, develops and implements unified human resource management policies in the court, arranges continuing staff education, fosters motivation and loyalty among court staff, handles human resources records and supervises the internal working environment.

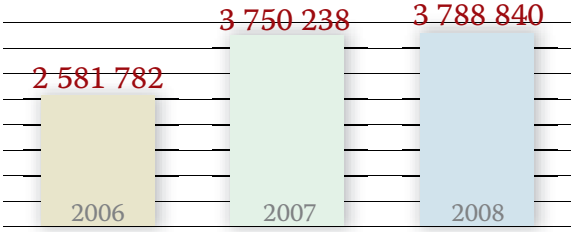
The Document Administration Division develops and implements a unified record-keeping policy in the court, arranges for circulation of documents, creates inventories and deals with recording and storing permanent and long-term storage documents. The Head of Division is Vanda Zoldnere.

The Communication Division develops and implements unified court communication strategy, deals with external and internal communication, engages in international cooperation, and maintains and develops a unified corporate style for the Court. The Head of Division is Rasma Zvejniece.

The Information Technology Division develops and implements court information technology and the information system development plan and deals with its maintenance, develops court information system security, and provides technical support to users of the court information system. The Head of Division is Pavels Veleckis.

The Finance Division develops and implements result-oriented budget planning in the court, provides financial management and control, develops and implements a clear and transparent accountancy system, organises accounting, manages business and technical supplies for the court, and keeps spending within the state budget allocated, ensuring sound and useful disposal. The Head of Division is Uldis Cuma Zvirbulis.

The Supreme Court budget



The Themis award

The award of the Supreme Court of Latvia, established in 2005 to recognise and honour the most successful and professional judges and Court staff of the year and to motivate them for future work and development. Professional nominations are: Judge of the Year, Judge's Assistant of the Year, and Secretary of the Year. In order to determine the most successful and deserving person in the Supreme Court there is a popular nomination of Person of the Year.

Person of the Year

2005 – Rolands Krauze, Senator of the Department of Civil Cases of the Senate
2006 – Imants Fridrihsons, Senator of the Department of Civil Cases of the Senat
2007 – Roberts Guntis Namatevs, Senator of the Department of Civil Cases of the Senate.

Judge of the Year

2005 – Aiva Zarina, Judge of the Chamber of Civil Cases
2006 – Pavels Gruzins, Chair of the Department of Criminal Cases of the Senate,
2007 – Valerijans Jonikans, Chair of the Department of Civil Cases of the Senate.

Judge's Assistant of the Year

2005 – Linda Strazdina, Assistant to the Chair of the Chamber of Criminal Cases,
2006 – Viesturs Gaidukevics, Assistant to senator of the Department of Criminal Cases of the Senate,
2007 – Kristine Aperane, Assistant to senator of the Department of Administrative Cases of the Senate.

Secretary of the Year

2005 and 2006 Anda Eglite, Secretary of the Senate's Chancery,
2007 – Sanita Jefimova, Court Secretary of the Chamber of Criminal Cases

Supreme Court Strategy 2007 – 2010

The Supreme Court mission is fair hearing of cases and working towards the public good, while respecting the principles of good management. The core values of those who work in the Supreme Court are the rule of law, honesty, professionalism, and responsibility. Everyday work is based on the principles of justice, openness, independence and ongoing improvement. Supreme Court Strategy for 2007 – 2010 has determined strategic goals in the following areas of activity:

1. Professional and fair hearings.
2. Development of uniform case-law in Latvia.
3. Promotion of public awareness of judicial authority.
4. Consolidation of the principles of good institutional management practice.

1. Professional and fair hearing

Goal I. Respect for human rights in administration of justice

Tasks for reaching the goal:

- to arrange selection and translation of rulings of the European Court of Human Rights, as well as facilitating their publication;
- to arrange training of judges and their assistants on topical human rights issues;
- to arrange in-service training of judges and their assistants at the European Court of Human Rights.

Goal 2. Effective and confidence-inspiring court proceedings

Tasks for reaching the goal:

- to prepare guidelines for carrying out legal proceedings;
- to optimise the number of judges and fill vacant judges' posts;
- to improve the organisation and quality of work of chanceries with a view to high-quality support for preparing court proceedings.

Goal 3. Improve the quality of rulings

Tasks for reaching the goal:

- to study reasoning and arguments in Supreme Court decisions to identify appropriate improvements;
- to strengthen the principle of collegiality and responsibility of judges when drafting court decisions;
- to provide for cooperation between Court Chambers and Departments of the Senate and sharing experience in applying legal provisions and drafting rulings;
- to attract law professionals and legal research consultants to study and analyse topical issues and apply procedural law provisions;
- to regularly analyse judgments of the European Court of Human Rights and the EU Member State Courts;
- to provide uniform interpretation and application of legal provisions.

Goal 4. Continuing education for judges

Tasks for reaching the goal:

- to perform a detailed analysis of learning needs;
- to provide for development and implementation of ongoing professional education, including assessing the usefulness of studies;

- to work on regularly improving English language skills and acquisition of legal terminology;
- to provide judges and staff with a wide range of legal literature;
- to participate in development of a special master's study course for judges;
- to organise targeted exchange of knowledge and experience with EU Member States;
- to improve cooperation with the Judicial Training Centre.

2. Development of uniform case-law in Latvia

Goal 5. Developing a case-law database

Tasks for reaching the goal:

- to select and inventorise decisions of the Supreme Court Senate and Chambers for publication in the case-law database; to arrange public access to the case-law database;
- to include the Latvian case-law database in the Common Portal of National Case-law of Supreme Courts of the European Union;
- to include in the database diverse, topical, user-friendly and easily-accessible information pertaining to case-law;
- to publish yearly collections of rulings of the Senate, including a translated synopsis.

Goal 6. Summarising, analysing, and promoting case-law

Tasks for reaching the goal:

- to regularly study case-law and compile topical legal issues in cooperation with the Senate and invited experts;
- to discuss compilations of court decisions at Senate assemblies, explaining application and interpretation of legal acts;
- to publish compilations of court decisions and explanations provided at Senate assemblies on the Supreme Court web site and in other legal publications;
- to study Senate rulings adopted between 1918 and 1940 and their possible application.

Goal 7. Cooperating with regional courts and district (city) courts

Tasks for reaching the goal:

- to issue questionnaires on issues topical for courts of lower instance in order to organize seminars and compile court decisions;
- to organize seminars for judges of regional and district (city) courts through cooperation between the Case-law Division and Supreme Court senators and judges;
- to regularly forward compilations of court decisions and Senate explanations of case-law to the Ministry of Justice and courts of lower instance;
- to establish a library and reading room at the Supreme Court, accessible also for judges of courts of lower instance.

Goal 8. Facilitating changes in legislation

Tasks for reaching the goal:

- to participate in drafting a law governing the court system;
- to prepare proposals for amendments issuing from court rulings or compilations of court decisions;
- to promote the position of the Supreme Court when amendments are drafted and discussed, if such amendments concern case-law;
- to apply to the Constitutional Court to initiate proceedings on conformity of regulatory enactments with the Constitution, if doubts arise while hearing a case.

3. Promoting public awareness of judicial authority

Goal 9. Improving the principle of openness in the work of the Court

Tasks for reaching the goal:

- to develop and implement a Supreme Court Strategy for communicating with the public;
- to increase the amount of information about Supreme Court activities on its web site;
- to improve cooperation with journalists writing about justice issues (e.g., provide information, interpret decisions, arrange press conferences and seminars);
- to develop pre-conditions for electronic distribution of cases.

Goal 10. Availability of court rulings

Tasks for reaching the goal:

- to improve the Supreme Court web site, in particular publishing all Senate rulings;
- to develop a procedure for publishing rulings with due regard for the requirements of personal data protection;
- to update the procedure for providing information from the Supreme Court;
- to send compilations of Senate decisions to the European Court of Human Rights and the judicial libraries of the European Community.

Goal 11. Maintaining the unblemished reputation of judges and court staff

Tasks for reaching the goal:

- to establish an Ethics Committee at the Supreme Court,
- to improve working procedures of court staff by introducing higher ethical standards;
- to develop procedures for compliance with Ethics Code requirements at the Supreme Court;
- to take appropriate steps in order to prevent possible conflict of interest among staff;
- to develop and implement an anti-corruption plan.

Goal 12. Participating in community legal education

Tasks for reaching the goal:

- to promote the Supreme Court as an excellent place of practice for students of faculties of law at higher educational establishments;
- to organise visits to educational establishments, providing information about Supreme Court activity and the judicial system in general;
- to prepare and publish information materials about jurisprudence in the Supreme Court;
- to prepare and publish tools for finding information on the Supreme Court web site.

4. Consolidating principles of good institutional management practice

Good management practice in the court includes:
- accountability;
- transparency;
- equity;
- rule of law;
- skills and competence;
- responsiveness to people's needs.

Goal 13. Improving court management
Tasks for reaching the goal:
- to develop a quality management system for administrative work with descriptions of procedures and processes;
- to strengthen the internal control system of the Supreme Court;
- to develop a risk assessment and management plan;
- to raise court staff awareness of the importance of their job and its contribution to the overall goals of the institution;
- to improve the intranet for exchange of internal information and communication.

Goal 14. Developing efficient staff policies
Tasks for reaching the goal:
- to develop and introduce a procedure for planning and selecting court staff;
- to develop performance assessment criteria for court staff;
- to improve the performance of court staff through effective incentives;
- to define uniform requirements, criteria, and standards for candidates to particular posts;
- to provide for career planning and succession.

Goal 15. Introducing mid-term budget planning
Tasks for reaching the goal:
- to develop flexible, targeted technical resource management and planning through analysing expected results;
- to provide a link between a system of effective indicators and strategic planning;
- to provide efficient control over use of resources by establishing an internal audit unit.

Goal 16. Modernising information technology
Tasks for reaching the goal:
- to provide the Senate with a meeting room for hosting video conferences;
- to provide the Chamber of Criminal Cases with court rooms equipped with video/audio recording and sound systems;
- to improve the security system, providing television surveillance and a voice alarm system;
- to conduct a security audit of the information system and to elaborate the necessary internal rules for data protection.

The Document Administration Division. *During 2007 the Supreme Court received more than 3 800 applications from physical and legal persons and more than 11 000 documents related to court matters*

Heaps of cases. *Court materials submitted to the Senate are usually bound together in many thick volumes*

Senators' assistants. *Assistants to senators of the Department of Administrative Cases Gatis Bardins, Agris Dreimanis, Konstantins Vaivods, and Kristine Aperane*

The Case-law Division also includes the Supreme Court Library. *Senator's Assistant Nora Magone and Consultant Gunvaldis Davidovics*

In the Senate Chancery. *All the court secretaries of all departments at work*

Information stand in the lobby. *The stand displays procedures for information and applications, lists of cases, and court sessions. Allocation of cases and other useful information is also displayed. All information is also available on the Internet at the Supreme Court web site, which forms part of the information stand*

II

ADMINISTRATION OF JUSTICE IN THE SUPREME COURT

Section 92 of the Constitution of the Republic of Latvia

Everyone can protect their rights and legal interests in a fair court. Everyone shall be considered not guilty until their guilt is recognized in accordance with the law. In the event of a groundless offence of rights everyone has the right to corresponding compensation. Everyone has the right to the assistance of a lawyer.

The right to a fair trial

The right to a fair trial is an essential basic right. In a democratic state, individuals are entitled to expect protection from an independent and impartial court. A fair court is a guarantee of the rule of law in the State. The right to be protected by a fair court is proclaimed in Section 92 of the Latvian Constitution.

The right to a fair trial includes the right to access the court, the right to a competent and independent court, the right to court proceedings ensuring a fair and impartial hearing, as well as the right to effective enforcement of a court decision. The basic element of an independent court is a competent and impartial judge.

The provisions for ensuring independence of the court and a fair hearing are specified in the Law "On Judicial Power".

The right to a fair trial is guaranteed by the three-instance court system in Latvia.

As the highest instance, the Supreme Court hears cases by cassation as well as appeal, under the Civil Procedure Law and the Criminal Procedure Law. The Supreme Court is the central source of case-law in the State.

Basic principles of hearing cases

Basic principles of hearing are defined in the law "On Judicial Power", and in procedural law – the Civil Procedure Law, the Criminal Procedure Law, and the Administrative Procedure Law.

Depending on the type of procedure, the principles of hearing may differ; for instance, one of the basic principles of civil procedure is the principle of adversarial proceedings, where the parties exercise their procedural rights adversarially and the court decides the case depending on the evidence and arguments submitted by the parties. In turn, administrative procedure is based on the principle of impartial investigation, which - unlike the principle of adversarial proceedings - requires active participation of the court in clarifying the circumstances and collecting evidence.

The principles of procedural law derive from the right to a fair trial laid down in Section 92 of the Constitution – namely, the right of an individual to expect that the State defines and the courts provide a trial procedure that guarantees comprehensive and impartial hearing of cases within a reasonable time. Therefore, some common basic principles exist for hearing cases within civil procedure, criminal procedure, and administrative procedure, with "the principle of all principles" being that the court ensures an individual's right to a fair trial.

- **The principle of justice**. Under this principle, a court acts in accordance with the law (in a broader sense – in accordance with general principles of law) when hearing a case.
- **Openness**. Openness guarantees "transparency" of judicial proceedings and therefore serves as a tool for ensuring trust. In the Supreme Court, cases are heard openly. The hearing of a case in closed court session is permitted only in cases required by law with the aim of protecting, e.g., State secrets, the security of those involved in the proceedings (for instance, witness protection in criminal cases), the right of an individual to the protection of sensitive personal data, commercial secrets. Under the principle of openness, a court decision is also always pronounced publicly and, as generally accessible information, should be available *via* the procedure stated in the laws "On Judicial Power" and the "Freedom of Information Law".
- **Collegiality**. In the Supreme Court cases are heard collegially by three judges. When the law requires, the Senate hears cases in full court or at an assembly of a department. All court decisions are taken by a majority of the votes of the judges, while a judge may not abstain from voting.
- **Language of Judicial Proceedings**. Judicial proceedings in the Supreme Court are conducted in the official language of the State. If requested by a participant in a case and by agreement between all parties, the court may also allow another language to be used in judicial proceedings. For those taking part in a case who are not fluent in the language of the proceedings (other than representatives of legal entities) the court must ensure that they may familiarize themselves with case materials and take part in court proceedings with the help of an interpreter.
- **Procedural economy**. The court must hear a case in a timely manner and pursue the case so as to facilitate its most timely result.
- **The principle of procedural equity**. When hearing a case, the court must observe impartiality and comprehensively evaluate all available evidence, basing its decision only on the circumstances

confirmed by evidence examined during the hearing and obtained with due regard to procedures set out by law. The court must ensure procedural equality of the parties in the proceedings, in particular that parties have an equal opportunity to use their procedural rights to defend their interests.

- **Direct Review**. This principle states that when hearing a case the court must itself examine the evidence in the case; evidence not examined by the court itself may not be admitted as proven. This principle applies to the Chambers of Civil Cases and Criminal Cases, which hear cases on the merits as courts of appeal. The Senate as a court of cassation instance does not itself examine evidence.

Access to Information

The right to access information derives from the right to freedom of speech guaranteed by Section 100 of the Latvian Constitution and includes the right to freely acquire, hold, and distribute information and to express opinions.

The procedure for exercising rights guaranteed by the Constitution is specified in the "Freedom of Information Law". The basic principle of freedom of information determines that generally accessible information should be made available to anyone who wishes to receive it, with due regard to individuals' equal rights to obtain information; moreover, applicants should not be required to specifically justify their interest in generally accessible information, and they may not be denied access on the ground that the information does not apply to them. An individual need not be involved in a particular court case to receive information about it.

Access to information at the disposal of a court is also governed by the law "On Judicial Power". In general, a court decision is publicly accessible information, whereas the court materials in the case are restricted-access information.

A court ruling on a case heard in open court session drawn up in the form of a separate procedural document should be generally accessible from the moment it is pronounced – and, where a ruling is not pronounced, then from the moment of its delivery. A court ruling in a case heard in closed or partly closed court session is restricted-access information (except for the introductory and operative parts).

The materials in a case heard in open court have the status of restricted-access information, but only from the moment when the final decision of a court comes into effect. Until then, the case materials are available only to those enjoying rights under procedural law.

The materials in a case heard in closed session are available only to those enjoying rights under procedural law and the law "On Judicial Power". The materials in a case heard in closed session become restricted-access information for 20 years after the final court ruling comes into effect. The respective period is 75 years in cases determining the parentage of a child, adoption, annulment or dissolution of marriage, and declaring a person incapable of acting because of mental illness or mental deficiency. Materials in a case heard in closed session concerning protection of official secrets become restricted-access information on expiry of the term of confidentiality of information in the case.

Other state administrative and judicial authorities may access court materials of cases heard in open and closed court sessions if required for carrying out their functions.

Everyone is entitled to obtain from the court information concerning a court decision delivered in open court. The legislator restricts access to decisions delivered in closed or partly closed session, as well to the court materials in the case. The right to receive information may be restricted, if the restriction is required to protect legitimate public and private interests.

Legitimate private interest means the right of a person to non-disclosure of sensitive personal data and protection of personal data. Legitimate public interest also means the public interest in enabling the authorities to carry out their basic functions effectively. If processing an information request is not commensurate with the resources at the disposal of the Supreme Court, i.e., if execution of the basic functions of the court is substantially hindered, the right to receive information may be restricted, by providing the information in a longer period or in a more appropriate way. Moreover, the court may refuse to send information if a request is too vague so that processing the request is not commensurate with the resources at the court's disposal.

All requests for information must be addressed to Senate Chanceries or Court Chambers, while journalists must specifically address them to the Communications Division. The court must respond to an information request within 15 days – or 30 days if an answer requires additional processing or a request for additional information. Information requiring additional processing is provided for a fee.

In order to ensure better access to judicial information, the web site of the Supreme Court includes the docket, information about the result of hearing in heard cases, as well as recent court decisions.

Court procedure

In civil procedure court sessions the court hears and decides cases concerning disputes related to protection of civil rights, employment rights, family rights, and other rights and lawful interests of natural and legal persons.

In criminal procedure court sessions the court hears and decides on the validity of charges brought, and either acquits those who are not guilty, or brings in a finding of guilt of committing a criminal offence and imposes punishment.

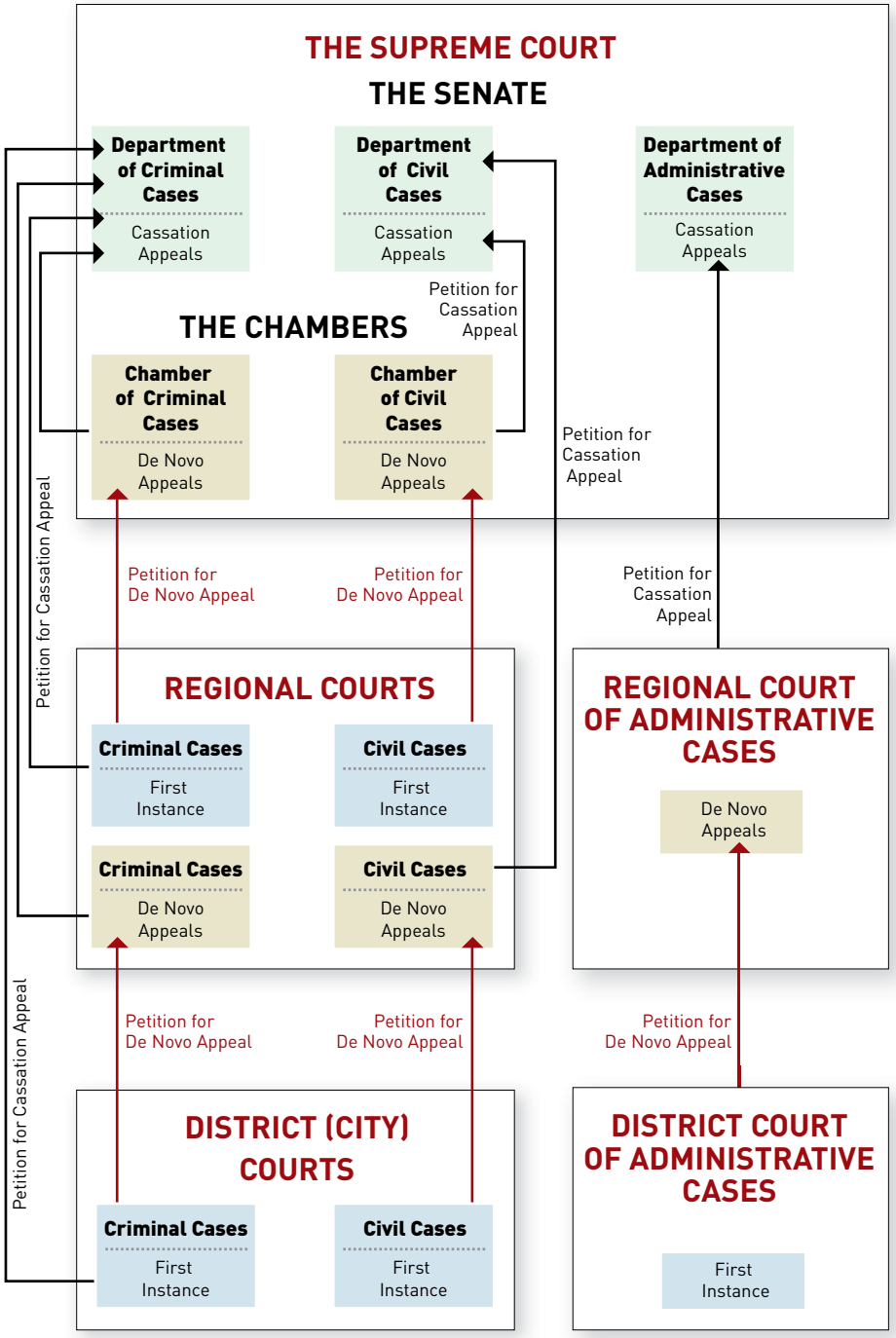
In administrative procedure the court exercises control over the activities of the executive authority in public legal relations between the State (in the broad sense) and the individual. Thus, administrative courts are an important procedural guarantee for observation of human rights by the State. Administrative courts deal with acts issued by administrative institutions and their actual activities, applications concerning the public legal duty of individuals or clarification of their rights, as well as applications concerning public legal contracts. When hearing administrative cases, the courts examine whether institutional decisions and actions are legal and appropriate.

Appellate Instance

An appeal *(Latin, appellatio – judicial review*) is a review of a case on the merits within the framework of claims expressed in an appeal or a protest.

Court Chambers are appellate instances in civil and criminal cases heard by regional courts as courts of first instance. Court Chambers hear cases collegially in the shape of three judges. Ancillary complaints in civil cases may be heard by written procedure.

The Supreme Court and the Latvian Court System



Chamber of Civil Cases

The Chamber of Civil Cases hears civil cases on the merits concerning appeals and appellate protests about judgments of regional courts as first instance courts. Under the Civil Procedure Law, the categories of cases include:

- cases where a dispute concerns property rights in regard to immovable property related to title to real estate;
- cases arising from rights in regard to obligations, if the amount of the claim exceeds 150 000 lats;
- cases regarding patent rights, and protection of trademarks and geographical indications.

The Chamber of Civil Cases also hears:

- ancillary appeals from decisions of regional courts as first instance courts, regional courts as second instance courts, and Land Register office judges;
- applications to revoke decisions of regional courts due to newly-discovered facts.

Hearing appeals

Appeals in civil cases may be filed within 20 days from the day judgment is pronounced. In the case of an abridged judgment, the time for appeal is calculated from the date the court has announced for drawing up a full judgment.

Appeals are filed with the court that delivered judgment. The Civil Procedure Law lays down the State fee and other requirements, including details of the person lodging the appeal, the judgment and the extent to which judgment is being appealed, how the error in the judgment is manifest, whether new evidence is being submitted and the reasons why this evidence was not produced at the court of first instance. In an appeal, the subject-matter of the proceedings may not be amended to include new claims not put before the court of first instance.

Since a court of appeal hears a case on its merits, indications in an appeal concerning an error in the judgment may concern the facts of the case or application of legal norms. An appeal may involve challenging evaluation of the evidence by the first instance court, the facts established, application of norms of substantive and procedural law, and correctness of interpretation.

Appeals are heard in court session. The case is heard collegially, by three judges, observing the rules of civil procedure such as equality and freedom of the parties, and the principle of adversarial proceedings.

The Chamber of Civil Cases hears a case on its merits in connection with an appeal to the extent set out in the notice of appeal.

After hearing the case on its merits, the Chamber of Civil Cases delivers one of the following judgments, indicating the substance of the judgment:

- to satisfy the claim in full or in part;
- to dismiss the claim in full or in part.

After signing judgment, the court returns to the courtroom where a judge pronounces judgment by reading it. In pronouncing an abridged judgment, the court announces the deadline for drawing up a full judgment.

A judgment of the Chamber of Civil Cases comes into effect once pronounced. The parties in the case then have 30 days to appeal the judgment to the Supreme Court Senate. In the case of an abridged judgment, the period for appeal is calculated from the date announced for drawing up a full judgment.

Hearing ancillary appeals

The Chamber of Civil Cases also hears ancillary appeals in cases laid down by the Civil Procedure Law. An ancillary appeal may be filed within 10 days from the day when the decision is taken by a court, unless otherwise set out in the Civil Procedure Law.

An ancillary appeal is heard in court session or by written procedure in certain cases specified in the Civil Procedure Law. When hearing an ancillary appeal the Court Chamber examines the legality and basis of the appealed decision and delivers one of the following decisions:

- to leave the decision unamended and dismiss the appeal;
- to set aside the decision in full or in part and refer the case for re-hearing to the court that made the decision;
- to set aside the decision in full or in part and on its own motion decide the issue on the merits;
- to amend the decision.

When hearing an ancillary appeal from dismissal of an application to renew court proceedings and hear the case *de novo* in cases of default judgment, the Chamber of Civil Cases may:

- leave the decision unamended and dismiss the appeal;
- set aside the decision, renew the court proceedings and refer the case for hearing *de novo* to the first instance court.

Chamber of Criminal Cases

The Chamber of Criminal Cases hears criminal appeals and protests by way of appeal against hearings of a regional court as a court of first instance. Under the Criminal Procedure Law the categories of cases are:

- crimes against humanity or peace;
- war crimes, genocide, crimes against the State;
- serious crimes under Criminal Law as set out in Section 442 of the Criminal Procedure Law;
- crimes against morals and sexual inviolability, if involving a juvenile or minor;
- witness protection cases.

The Chamber of Criminal Cases may also hear cases regarding other criminal offences which a regional court has considered necessary to accept for hearing due to the legal complexity of the cases or for security reasons.

The Chamber of Criminal Cases hears appeals against decisions of regional courts in cases laid down in the Criminal Procedure Law.

Hearing appeals and protests

An appeal or protest in a criminal case must be filed with the court that delivered the decision not later than 10 days from the day when a full court decision became available.

An appeal must comply with the requirements of the Criminal Procedure Law, including details of the judgment and the extent to which it is appealed or protested, how the error in the judgment is manifest, evidence to be examined by the appeal court and – in cases involving an application to hear new evidence - what new evidence is being submitted, and under what circumstances and why that evidence was not submitted to or examined by the court of first instance. An appeal or protest must contain the given name, surname and address of the person to be examined by a court of appeal as requested by the individual filing the appeal or protest, as well as whether defence counsel is required in the court of appeal, and if so whether the court should arrange this. Victims and their representatives may not require more in an appeal than at the hearing in the court of first instance.

Cases are heard in open court or closed session, collegially by three judges. These directly and orally examine the evidence, and throughout the hearing must observe the rules of criminal procedure, such as equality of those involved, impartial and timely hearing of cases in official language, observing and respecting human rights, the presumption of innocence, the right to a defence, and the rule against double jeopardy *(ne bis in idem)*. Individuals under 14 years of age are only allowed in a courtroom if they are involved in the case.

Investigations and discussions in the Chamber of Criminal Cases take place to the extent and within the frame of requirements contained in an appeal or protest, except where a court of appeal has doubts regarding the guilt of or the circumstances aggravating the liability of an accused or accomplices determined by a court of first instance.

After hearing a case the Court Chamber takes one of the following decisions:

- to leave the judgment of the court of first instance unamended;
- to set aside the judgment of the court of first instance and deliver a new judgment;
- to partly set aside the judgment of the court of first instance and deliver a new judgment in that part;
- to set aside the judgment of the court of first instance and dismiss criminal proceedings;
- to set aside the judgment of the court of first instance in full or in part, and remit the criminal case to the court of first instance for re-hearing.

The court pronounces the introductory and operative parts of the decision and decides when the full court decision will be available.

A cassation appeal or protest may be filed not later than 10 days after a court decision becomes available. A judgment of the Chamber in criminal cases comes into effect after it has been appealed and the term for further appeal has ended in accordance with cassation procedures and that judgment has not been appealed. If a cassation appeal or protest has been filed, the judgment becomes effective on the day when a court of cassation hears the case.

Cassation instance

Cassation *(Latin, cassation – disaffirmation)* involves examining whether a judgment or a decision of a lower instance court conforms to the law. A cassation instance does not hear a case on its merits; the competence of the Senate does not include clarifying the facts of the case and examining and evaluating evidence. The Senate examines conformity of an appealed judgment with substantive and procedural law and decides on the basis of the relevant case materials.

The Senate adjudicates cassation appeals and cassation protests against decisions of regional courts in cases heard under an appeals procedure as well as decisions of the Chamber of Civil Cases and the Chamber of Criminal Cases of the Supreme Court.

Court structure. The Senate examines cases collegially, with three senators. If required, senators of Departments may replace each other during examination of cases. In certain cases under the Civil Procedure Law, the Senate may sit as a full court, while in other cases under the Administrative Procedure Law the Department of Administrative Cases of the Senate may examine a case in assembly. The Criminal Procedure Law requires that where a decision was taken by the Senate of the Supreme Court then it must be heard by five senators of the Supreme Court who did not previously participate in the hearing of the particular criminal

case, under the leadership of the chair of the court or their deputy.

Security deposit. Filing a civil cassation appeal involves payment of a security deposit, whereas this is not so in criminal and administrative appeals.

Senate Department of Civil Cases

The Senate Department of Civil Cases examines under the Civil Procedure Law:

- cassation appeals and cassation protests concerning judgments and supplementary judgments of courts of appeal;
- protests filed under due legal process by the Chief Justice of the Supreme Court, the Chair of the Senate Civil Cases Department, or the Prosecutor General against decisions of a court of first instance if they have come into effect and have not been appealed for reasons independent of the parties to the case, or where a court decision infringes the rights of State or local government institutions or of individuals who were not parties to the case;
- applications to re-hear cases in connection with newly-discovered facts;
- ancillary complaints filed under due legal process concerning decisions of an appeal court.

Hearing cassation appeals

A cassation appeal may be filed with the court that delivered judgment within 30 days from the day a judgment is drawn up. Filing a cassation appeal attracts payment of a security deposit of 50 lats (40 lats for a cassation appeal in the Senate against a judgment of the Chamber of Civil Cases about an ancillary appeal concerning a decision of a judge of the Land Register office). The security deposit is refunded if the Senate wholly or partly sets aside or amends an appealed court judgment, or if a cassation appeal is withdrawn prior to the Senate assignments sitting. A security deposit is not payable by those exempted by law or judicial decision.

Cassation appeals must comply with the Civil Procedure Law by including information identifying the appellant, the judgment under appeal and the extent of the appeal, the substantive or procedural law norms allegedly breached by the court and how such breach is manifest, or otherwise how the court has exceeded its scope of competence.

Leave to proceed by way of cassation proceedings is considered at an assignments sitting by a unanimous decision of a three-senator collegium of the Senate. This may terminate cassation proceedings if it finds that a cassation appeal fails to comply with legal requirements. Alternatively, it may refer the case for hearing under cassation procedure by the Senate in full court.

In hearing a case by way of cassation procedure, the Department of Civil Cases in court examines the legality and the basis of the appealed judgment, in particular whether the court followed procedural law and correctly applied substantive law, and whether the court exceeded its jurisdiction when hearing the case. The Department of Civil Cases need not review the facts (evidence) in the case.

The Department of Civil Cases focuses on the legality of the judgment regarding:

- the extent that it is appealed,
- those who appeal the judgment or who are party to the cassation appeal, and
- arguments mentioned in the cassation appeal.

However, the Senate may set aside the entire judgment, even though only part is appealed, if it determines that violations of law led to an erroneous hearing of the entire case. If a three-senator court

hearing a case fails to reach a unanimous opinion, or if all the senators consider that the case should be heard in full court, the court refers the case to the Senate for hearing in full court.

The Department of Civil Cases hearing a case may deliver one of the following judgments:

- to leave the decision unamended and to dismiss the appeal;
- to set aside the whole or part of a judgment and remit the case for re-hearing to an appellate or first instance court;
- to set aside the whole or part of a judgment and leave the appeal not proceeded with, or to terminate the proceedings if the court of second instance has failed to comply with the Civil Procedure Law;
- amend the judgment in regard to the part of it pertaining to the extent of the appeal, if it has been determined incorrectly as a result of wrong application of substantive law.

In civil cases, judgment must be pronounced. Once the senators have deliberated, the court returns to the courtroom and the chair of the session pronounces judgment by reading its operative part and informs the parties to the case when the full text of the judgment will be available. If the senators acknowledge that in this court session it is not possible to deliver judgment the Senate determines the next court sitting at which it will notify the judgment within the nearest 14-day period.

Interpretation of law as expressed in a judgment of the Senate is mandatory for the court that re-hears the case. However, in its judgment the Senate must not set out what judgment should be delivered in re-hearing the case.

A decision of the Senate may not be appealed and enters into effect on pronouncement.

Hearing ancillary appeals

An ancillary appeal against a decision of a regional court or of the Chamber of Civil Cases must be filed with the Department of Civil Cases within 10 days from the day the decision was taken, except in certain cases listed in the Civil Procedure Law.

An ancillary appeal is heard in court session or by written proceedings in certain cases listed in the Civil Procedure Law.

The Department of Civil Cases hearing an ancillary appeal examines the legality and basis of the appealed decision and delivers one of the following decisions:

- to leave the decision unamended and dismiss the appeal;
- to set aside the decision in full or in part and refer the case for re-hearing to the court that made the decision;
- to set aside the decision in full or in part and of its own motion decide the case on the merits;
- to amend the decision.

A decision by the Department of Civil Cases regarding an ancillary appeal may not be appealed.

Department of Criminal Cases

The Department of Criminal Cases hears under the Criminal Procedure law by cassation:

- cassation protests or appeals against decisions of courts of appeal that have not entered into effect;
- cassation protests or appeals against decisions of courts of first instance handed down during proceedings involving agreement between prosecution and defence that have not yet entered into effect;

The Department of Criminal Cases also hears cases where a court of appeal or Senate decision has come into effect if criminal proceedings are renewed in connection with newly-discovered facts.

The Senate also hears appeals and protests about re-hearing valid decisions in relation to a substantial violation of substantive or procedural law.

Hearing cassation appeals and protests

A cassation appeal or protest must be filed no later than 10 days after the day when a court judgment or decision becomes available.

An accused, their defence counsel, a victim and their legal representative may file a cassation appeal. A public prosecutor may submit a cassation protest. A cassation appeal or protest is filed with the court that delivered judgment.

A cassation appeal or protest includes justification of the remedy it claims by reference to violation of Criminal Law or Criminal Procedure Law norms, as well as a reasoned request for hearing the case orally in court session, if the person filing the appeal or protest so wishes.

The Department of Criminal Cases examines the legality of a decision in accordance with cassation procedures only where the action expressed in the cassation appeal or protest has been justified by violation of the Criminal Law or a substantial violation of the Criminal Procedure Law.

A violation of the Criminal Law is:

- incorrect application of sections of the General Part of the Criminal Law;
- incorrect application of a section, paragraph, or clause of the Criminal Law in qualifying a criminal offence;
- determination of a type or amount of penalty that has not been provided for in the sanction of the relevant section, paragraph, or clause of the Criminal Law;

The following amount to substantial violations of the Criminal Procedure Law that lead to setting a court decision aside:

- a court was not properly constituted by law when it heard a case;
- circumstances that exclude participation of a judge in hearing a criminal case have not been complied with;
- a case has been heard in the absence of the accused or persons involved in the proceedings, if the Law requires their participation;
- the right of the accused to use a language that he or she understands and to use the help of an interpreter has been violated;
- the accused was not given the opportunity to make a defence speech or was not given the opportunity to have the last word;
- a case lacks the minutes of a court session, if minutes are mandatory;
- delivery of judgment involved violation of a secret of court deliberations.

Expulsion of an accused or victim from a courtroom may be recognised as a substantial violation of the Criminal Procedure Law, if expulsion was unjustified and has substantially restricted their procedural rights and therefore led to an unlawful decision. Other violations of the Law may be recognized as a substantial violation of the Criminal Procedure Law leading to unlawful decision.

A senator-rapporteur when studying a case determines:

- hearing of the case by written procedure;
- hearing of the case in court session;
- refusal to examine the legality of a decision if not justified by a violation of the Law.

The case is heard by written procedure if the case materials enable a decision. The hearing takes place in court session if additional explanations are needed from those who have the right to participate in the proceedings or if, at the discretion of the Senate, the relevant case may have special significance for interpreting the law.

Hearings by written procedure or in court session take place in a collegium of three senators. The Senate does not evaluate evidence *de novo.*

Examining the legality of a court deci-

sion takes place to the extent and within the framework of the cassation appeal or protest.

The Senate may also exceed the extent and framework of the cassation appeal or protest if violations indicated in the Criminal Procedure Law are identified even though not indicated in the appeal or protest.

The Senate takes one of the following decisions:

- to leave the decision unamended and dismiss the cassation appeal or protest;
- to set aside the decision in full or in part and refer the case for re-hearing;
- to set aside the decision in full or in part and terminate criminal proceedings;
- to amend the decision;
- to terminate cassation court proceedings.

If a case has been heard by way of oral proceedings in court, the entire collegium of the court signs the operative part of a decision in the deliberation room. The chair or a judge of the collegium immediately pronounces the decision in the courtroom.

An interpretation of law expressed in a Senate judgment is mandatory for the court that re-hears the case. However, in its judgment the Senate may not set out the judgment to be delivered in re-hearing the case.

A decision of the Senate may not be appealed but is effective at the moment of pronouncement.

Appeals and protests concerning re-hearing a valid decision in relation to a substantial violation of substantive or procedural law

A court decision that has come into effect may be adjudicated *de novo* if not adjudicated in accordance with cassation procedure. A decision that has come into effect may be heard *de novo* in criminal proceedings wherein a special law regarding exoneration of a convicted person is to be applied.

An advocate may file an appeal for re-hearing a court decision under the instructions of the convicted or acquitted person, or under the instructions of the person against whom criminal proceedings have ended with a court decision. The Prosecutor General or the Chief Prosecutor of the Criminal Law Department of the Prosecutor General's Office may file a protest on the basis of their own initiative or on the basis of a request of the persons referred to previously.

An appeal or protest may be filed if:

- a decision has been taken by an unlawfully constituted court;
- an official investigation has determined that one of the judges did not sign the decision because he or she did not participate in delivering the decision under lawful procedures;
- violations referred to in the Criminal Procedure Law led to unlawful deterioration of the condition of the convicted person.

Time for filing an appeal or protest is not subject to restrictions.

Appeals and protests concerning re-hearing a valid decision are heard by the Senate under the Criminal Procedure Law. The court examines the disputed part of the judgment or decision. The decision may also be examined in full and in relation to all convicted persons if cause exists for setting aside due to violations of the law that led to incorrect hearing of the case.

Examining an appeal or a protest leads to one of the following decisions:

- to leave the decision unamended and dismiss a cassation appeal or protest;
- to set aside the decision in full or in part and refer the case for re-hearing;
- to set aside the decision in full or in part and terminate criminal proceedings;
- to amend the decision;
- to terminate cassation court proceedings.

Department of Administrative Cases

The competence of the Senate Department of Administrative Cases as a court of cassation is determined by the Administrative Procedure Law. The Department of Administrative Cases hears:

- cassation appeals against judgments and supplementary judgments of the Administrative Regional Court. Starting from 1 January 2008 in cases provided for by Application Law the Department of Administrative Cases also hears cassation appeals against decisions of the Administrative District Court;
- ancillary appeals concerning decisions of the Administrative Regional Court;
- appeals regarding suspension or renewal of an administrative act, as well as application of provisional regulation;
- appeals concerning newly-discovered facts.

At the same time, particular legal provisions of other laws specify separate categories of matters in which the Department of Administrative Cases hears a case as a court of first (and only) instance:

- cases related to elections of the *Saeima* (Parliament), examining applications concerning decisions of the Central Elections Commission delivered regarding disputed electoral district poll minutes, decisions concerning approval of results of *Saeima* elections and decisions delivered when evaluating the effect of a verdict of guilt in a criminal case concerning violations of election rights to distribution of mandates;
- examining appeals concerning decisions of the State Audit Office;
- examining appeals concerning decisions of the Minister of Interior regarding inclusion of foreigners in the list of persons prohibited from entering the Republic of Latvia.

Hearing cassation appeals

A cassation appeal may be filed within thirty days from the day when judgment is drawn up. A cassation appeal is filed with the court that delivered judgment. No payment of State fees is required in regard to a cassation appeal.

A cassation appeal must follow the requirements of the Administrative Procedure Law. These are that a cassation appeal must include details of the appellant, which judgment is being appealed and the extent of appeal, what norms of substantive or procedural law are alleged to have been breached by the court, and how breach is manifest.

Leave to initiate cassation proceedings is decided by a Senate collegium of three senators at an assignments sitting, which may refuse leave to do so:

- if provisions concerning contents of a cassation appeal are not observed;
- if a precedent of the Department of Administrative Cases already exists in similar cases and the appealed judgment corresponds to this precedent;
- if no doubts exist as to the legality of the judgment of the court of appellate instance and the case to be examined has no significance in the creation of precedent.

With refusal of leave to initiate cassation proceedings the appealed judgment of the court of appellate instance comes into effect and may be executed.

If cassation proceedings are initiated, the Department of Administrative Cases in hearing a case by way of cassation procedure examines the legality and the basis of the appealed judgment, in par-

ticular whether the court has observed procedural law and correctly applied substantive law. The Department of Administrative Cases does not review the actual circumstances (evidence) of the case. A cassation complaint is heard by the Department of Administrative Cases in court session or in written proceedings if the parties to the case agree.

When hearing a case by way of cassation procedure the Senate examines the legality of the existing judgment as to the appealed part of the case regarding the party to the administrative procedure who appeals the judgment or who has joined in the cassation appeal and regarding arguments mentioned in the cassation appeal. However, the Senate may set aside the entire judgment, even though only part of it has been appealed, if it decides that violations of law led to wrongful hearing of the entire case.

If in hearing a case the senators cannot achieve unanimity, the case may be referred for hearing in a plenary sitting of the Department of Administrative Cases.

The Department of Administrative Cases, following its hearing of the case, may deliver one of the following judgments:

- to leave the decision unamended and to dismiss the appeal;
- to set aside the whole or part of the judgment, and refer the case for re-hearing to an appellate or first instance court;
- to set aside the judgment in whole or in part, and leave the appeal not proceeded with, or to terminate the court proceedings if circumstances are established that rule out proceedings in the particular case.

In administrative cases a judgment is not pronounced. The judgment is drawn up and a true copy made available for the parties to the case in the office of the Senate by the date notified.

An interpretation of law in a Senate judgment binds the court that re-hears the case. However in its judgment the Senate must not set out the judgment to be delivered in re-hearing the case.

A decision of the Senate may not be appealed but is effective on pronouncement.

Hearing ancillary complaints

An ancillary complaint may be filed within ten days from the day when a decision is taken by the Administrative Regional Court, except in the cases provided for by law, when time to appeal an ancillary complaint is counted from the day the decision is received.

Ancillary complaints, as well as applications regarding suspension or renewal of an administrative act and application of provisional regulation and applications regarding newly-discovered facts are heard by way of written proceedings. At the discretion of the court, a hearing of ancillary appeals may be decided in court.

When hearing an ancillary appeal the Department of Administrative Cases examines the legality and the basis of the appealed decision and delivers one of the following decisions:

- to leave the decision unamended and dismiss the complaint;
- to set aside the decision in full or in part and refer the matter for re-hearing to the court that made the decision;
- to set aside the decision in full or in part and on its own motion decide on the merits;
- to amend the decision.

A decision by the Department of Administrative Cases regarding an ancillary appeal is final and may not be appealed. The judgment is pronounced in the same way as in an administrative matter.

European judges and prosecutors. *Visitors to the Supreme Court in October, 2007 in the frame of European training: Judges from Spain, Austria, Italy, and Poland as well as prosecutors from Belgium and Rumania*

Delegation of the Lithuanian Supreme Court visiting the Supreme Court in June 2007. *Vytautas Greicius, Chief Justice of the Supreme Court of Lithuania, proposes to conclude a cooperation agreement between Courts of neighbouring countries*

Cooperation. *Bae Hyong-Won, Supreme Court Justice, currently Attaché of the Republic of Korea in Vienna, visiting the Supreme Court in November, 2007*

The museum. *The exhibition, opened in 1998, and enlarged in 2005, has a repository containing 775 units – senators' biographies, photos, books, publications, other items*

Samuel Alito, Justice of the US Supreme Court. *In July 2007, Justice Samuel Alito honoured the Supreme Court with a visit when taking part in an international conference of judges in Riga, showing an interest in the Court Museum and listening to stories about Latvian courts and legislative history*

Repression cases. *Criminal cases retained in the archives help to learn about the fate of those subjected to repression, to follow events and testimonies. A life-story carefully bound in cardboard – accusations, minutes of interrogation, search warrants, judgments of military tribunals, petitions for pardon. Notifications on amnesty and death are frequently found together in one place*

«Justice». *The main lobby of the Palace of Justice houses a sculpture by Karlis Zemdega entitled «Justice» featuring a beautiful girl holding a sword and a book of laws. The girl is thought to represent Laima, the goddess believed by ancient Latvians to determine a person's fate, to deliver justice, and to allot to each person their fair share*

The interior of the Palace of Justice. *For its construction in 1936-8, architect Fridrihs Skujins incorporated the best ideas from award-winning architects A. Klinklavs, O. Telmanis, and A. Medlingers submitted to a project design competition. M.Vaitnieks, master craftsman bricklayer, was Palace of Justice contractor*

III

HISTORY OF THE SUPREME COURT

Hermanis Apsitis, Minister of Justice, 1938:
« ... the most valuable thing a judge, a prosecutor, and an advocate may accomplish when performing his duties rests neither in the cases examined, nor in the heaps of heard cases filling the shelves of the archives and collecting dust, but in how successful we have been in re-educating and educating those who were deemed to cross the threshold of a court building. Hundreds of thousands of heard cases and disputes resolved would be a waste of time, if not for the task of maintaining, increasing, and strengthening national moral values. Not only representatives of law enforcement, but also every citizen knows and understands that development may be expected only in a country which respects the rule of law. Where there is law, there is order; where there is order, there is security, and security means peace and harmony. Peace ensures work and yields fruit. Therefore, if a court succeeds in raising legal consciousness, it has done a good job.»

Main development phases

Senate: foundation and commencement of activity

One of the first important acts of the Latvian government after the declaration of national independence on 18 November 1918 was to create its own Latvian-based judicial system. Peteris Jurasevskis, the first Minister of Justice, and his deputy, Eduards Strautnieks, both sworn advocates, immediately began negotiations about establishing courts and basic legislation concerning the judiciary.

On 6 December 1918 the People's Council of Latvia passed «The Provisional Regulation on Courts and Judicial Proceedings in Latvia», which may be considered the basis for the court system in Latvia. The Regulation became the fundamental law for the Senate, pronouncing the Senate of Latvia in Riga to be the highest – cassation – instance for all cases; the Senate was to hear cases collegially and it included three divisions (later renamed Departments) – the Civil, the Criminal, and the Administrative Divisions with Chairs elected by an assembly. The Senate was also to have a Head Prosecutor with deputies. Members of the Senate were appointed by the Provisional Government from a list of candidates recommended by the Ministry of Justice. Approval of senators fell within the jurisdiction of the People's Council.

On 7 December 1918 the Provisional Government appointed the first senators or, as they were called in the provisional regulation, the first members of the

Senate – sworn advocates Janis Graudins and Kristaps Valters.

19 December 1918 is considered to be the day of foundation of the Senate, when Karlis Ozolins, Voldemars Zamuels, Mikelis Gobins were appointed Senators. Two other Senators - Mincs and Reisners – appointed never served and were replaced by Augusts Lebers.

When the Provisional Government was forced to leave Riga when it was occupied by Bolshevik forces, the Senate ceased activity, resuming its work on 15 July 1919 when the Government returned to Riga.

The first accountancy document of the Senate, dating back to 24 July 1919, is a bill for a transparency to the value of one rouble. The first premises of the Senate were in the building of the Riga-Valmiera Magistrate of Russia, with judges' meetings taking place on Aleksandra (Brivibas) Boulevard, where the departments occupied six rooms and one courtroom. Initially, all three departments as well as the Head Prosecutor's Office shared a common chancery with one assistant to the chief secretary and one typist. At that time, the Senate had almost no furniture and the senators had to loan their personal belongings to the Senate. On 5 August, the Senate purchased its first equipment consisting of two typewriters.

On 19 August 1919, a Government meeting «re-appointed and appointed» a new list of judges. On 10 September the first joint journal of the Senate steering meeting was drafted. A decree from the Minister of Justice was presented to the Senate indicating that on 5 September 1919 the People's Council had approved six senators.

On 23 September 1919 the Cabinet of Ministers appointed Voldemars Zamuels to be the first Head Prosecutor of the Senate.

On 2 October, an assembly of the Senate elected the Chairs of Departments: K. Ozolins to the Department of Civil Cases, M. Gobins to the Department of Criminal Cases, K. Valters to the Department of Administrative Cases. One permanent member was also elected to serve in each department, simultaneously serving as a temporary member in another department, as the positions of nine senators were covered by only five. The first salary of a senator in the autumn of 1919 was recorded as 1400 roubles per month.

On 1 November 1919, when Bermont's troops attacked Riga, the building housing the Senate was hit by an artillery shell, which damaged the outer wall. The Senate moved to a building on the current Merkela Street. In January 1920 the Senate returned to the building on Aleksandra Boulevard.

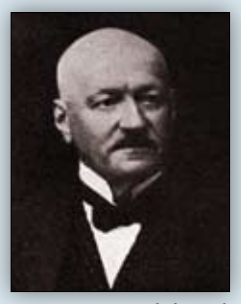
From 19 December 1918 until 2 October 1919, the Senate was mostly involved with organizational, legal, and administrative matters, and did not review cassation appeals. The Senate invested a great deal of effort in creating a court system. In 1919, the following draft laws prepared by the Senate were submitted to the Ministry of Justice: The fundamental rules of the Latvian Senate; Instructions to Latvian courts; Regulations in guardianship cases; the law on the introductory section of opinions of Latvian courts; Instructions on the use of the German and Russian languages in Latvian courts.

On 3 June 1920 the full Senate elected the Chair of the Administrative Department, Kristaps Valters, as Chairman of the Senate «to preside over preliminary meetings and meetings of court panels».

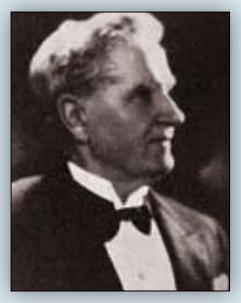
Developments to 1940

The first six senators were followed by the following exceptional lawyers who invested their talent in honourable service to justice: Bronislavs Nagajevskis, Andrejs Simanis, Aleksandrs Gubens, Fridrihs Vesmanis, Baldvins Disterlo, Janis Kalacs, Aleksandrs Petersons, Karlis Purins, Fricis Zilberts, Fridrihs Konradi, Janis Balodis, Osvalds Ozolins, Janis Rudolfs Alksnis, Mintauts Cakste, Vladimirs Bukovskis, Jekabs Grots, Janis Skudre, Karlis Ducmanis, Peteris Leitans, Peteris Sterste, Janis Ankravs, Teodors Bergtals, Augusts

Chairs of the Senate assembly



1919–1920 – Mikelis Gobins



1921-1934 – Kristaps Valters

1934-1940 – Aleksandrs Gubens

Rumpeters, Aleksandrs Haritonovskis, Voldermars Kanepitis and others. During the Senate's existence, 30 judges were elected Senators, but no more than 17 senators held office simultaneously.

During the dawn of the Latvian State, senators managed and supervised application of many former Russian laws and worked towards uniform and correct interpretation of newly passed Latvian laws.

In the course of twenty years the Senate gradually became the true supreme judicial body of the country and contributed significantly to strengthening the judicial system and developing legal thought and national law. On August 1, 1933 a celebration meeting was held in the Senate courtroom to mark the coming into force of the Penal Code. At the meeting A.Ozols, Minister of Justice, presented the first copy of the new Penal Code to Aleksandrs Gubens, Chair of the Senate's Criminal Cassation Department, acknowledging the Senate's supreme status in implementing the law. Senators also actively participated in drafting the Civil Law enacted in 1937. Senators Osvalds Ozolins and Karlis Ducmanis prepared the preamble to the law.

The number of cases reviewed by the Senate speaks for the amount of work done. During its 22 years of existence, the Senate's Criminal Cassation Department reviewed 18 458 cases, the Civil Cassation Department 16 299 cases, and the Administrative Department 28 397 cases, a total average of 3000 cases yearly or 10 cases every working day. Approximately 4800 judgments were published by the Senate. Collections of Senate rulings cover more than 6000 pages; today, these are a bibliographic rarity. In addition, at least 70 translated Senate judgments appeared in a journal published by the German Lawyers' Association of Latvia. Over 30 Senate judgments summarised and issued in Russian in the journal *«Zakon i sud»* were published in Riga and 20 translated Senate judgments were published in legal journals abroad. In this way Senate activities were promoted abroad. For instance, news of the particularities of the Senate judgment concerning dissolution of the marriage of the well-known producer Maks Reinhard circulated in the legal world. The Senate was congratulated on its progressive and soundly substantiated opinion.

The work of the Senate was profoundly affected by new fundamental regulations enacted after the *coup d'état* of 15 May 1934 requiring judges and justices to refrain from theoretical opinions and practical pronouncements in favour of the principle of the separation of powers. Instead, the judiciary was required to express its support to a uni-

fied and indivisible state authority «which helps judicial bodies to perform their judicial function independently in cooperation and harmony with other bodies of state power» (quoted from a speech by H.Apsitis, Minister of Justice, at an official meeting of the Senate on May 15, 1936). However, the Senate was also able to protect the judiciary during the autocratic period, even though Kristaps Valters, Chair of the Senate assembly, lost his post. The Senate then received an authoritative hint to send a letter of congratulation to Prime Minister Karlis Ulmanis, emphasising the legal meaning of the *coup d'état*. Kristaps Valters tried to decline this request, indicating that he could send a letter of congratulation, but could not recognise the legality of the *coup d'état*. Both the Ministry of Justice and the Prime Minister put pressure on the judiciary. The Minister of Justice propagated the idea of «Latvian law» and «Latvian courts», indicating that "a judgment may not be appropriate, if ... the judge's convictions are not in full harmony with the ideas of 15 May". In fact, the legal system was required to serve political objectives. However, the judgments of the Senate paid no «fees» to the ideas of 15 May. Notably, Karlis Ulmanis expressed a wish to become Judge Emeritus, but several senators raised objections and Ulmanis was not granted his wish.

The Soviet period

After Soviet military forces occupied Latvia in 1940 and Latvia was incorporated in the USSR, on 11 November 1940 the Presidium of the Latvian SSR Supreme Soviet issued a decree signed by Augusts Kirhensteins on restructuring the Latvian court system. The Senate continued its work until 26 November 1940, when the People's Commissioner of Justice issued an order, effective immediately, dismissing the senators.

Under Soviet law on the judicial system of the USSR, its republics and its autonomous republics, magistrates' courts were converted into People's Courts. Regional courts kept their name, but had to operate under Soviet law. Court Chambers became the Supreme Court of the Latvian SSR, but the former Senate was abolished altogether.

Repressions carried out also affected the judiciary. Of the sixteen judges serving at the time of Soviet occupation and out of the seven former judges then remaining in Latvia, only two died in Latvia. Seven judges died in exile in the Soviet Union and fourteen judges emigrated to the West. With the exception of Estonia and Lithuania, in no other Supreme Court in the world have the judges suffered a similar fate.

During Soviet occupation, the Supreme Court of the LSSR reviewed civil and criminal appeals as the court of second instance. It reviewed a few cases as the court of first instance, for example, murder cases under aggravating circumstances, organized crime, and crimes against the state. Its decisions were final and non-appealable.

Restoring the three instance court system in independent Latvia

On 4 May, 1990, the LSSR Supreme Council passed the declaration «On Restoring the Independence of the Republic of Latvia». This had the legal effect of a constitution, reinstating the four Articles of the *Satversme* (Constitution) of independent Latvia that set forth the constitutional and legal basis of the Latvian state. The declaration also provided for a transition period. On 21 August, 1991, the constitutional law «On the Political Status of the Republic of Latvia» fully restored the Latvian political system under the *Satversme* (Constitution) of 15 February, 1922. At the same time, it enabled gradual creation of a three-tier court system that meets the requirements of a democratic state.

Restoration of independence did not involve starting "from scratch" when re-establishing the judicial system, including the

Swearing in the judges of the Supreme Court on 8 April 1991. *During Soviet rule, swearing in was not practiced, even though the Constitution of the Latvian SSR stated that judges had to be sworn in. When Latvia's independence was re-instated, the judges' oath of office was renewed and all judges were sworn in regardless of their length of service. The judges swore to be fair and just, to uncover the truth and to hear court cases with due regard to legislation of the Republic of Latvia*

Chief Justices of the Supreme Court of the restored Republic of Latvia

1990-1994 – Gvido Zemribo
Since 1994 – Andris Gulans

Supreme Court. In fact, reform of the Latvian court system was an evolutionary process, with the new system in creation leaning on the regulatory basis of the former independent Latvian State. The beginning of the 1990s saw judicial reform prepared and then implemented both by individual Supreme Court judges, and by the Supreme Court as a whole. Even before national independence was *de facto* restored and the necessary legislative basis for judicial reform established, the Plenary Session of the Supreme Court boldly took some important decisions.

In order to prevent the Communist party from influencing the courts, on 14 February 1990 the Plenary Session of the Supreme Court stated that the post of a judge could not be combined with membership of a political party or organisation.

On 23 April 1990 the Plenary Session invited the Supreme Council of the Latvian SSR then exercising legislative power to declare illegal all decisions of judicial and extra-judicial institutions, which under the laws of the occupying state had subjected the inhabitants of Latvia to repression, and to rehabilitate them.

On 11 March 1991, the Plenary Session of the Supreme Court passed the decision «On the Independence of the Judiciary of the Republic of Latvia» which for the first time contained the basic principles of international standards for adjudicating cases and independence of the judiciary.

After restoration of national independence, a politically important question arose, namely, whether to allow judges who had studied and worked during the Soviet period to continue their work. This question particularly referred to Supreme Court judges. The decision taken was based on common sense, enabling separate assessment of individual performance and loyalty. Several judges had to resign, but many are still in office.

On 15 December 1992 the Supreme Council of the Republic of Latvia passed the law «On Judicial Power», to form the legal basis for judicial reform of Latvia. For the first time the principle of separation of powers was corroborated by law, providing for an independent judicial power in Latvia in addition to legislative and executive powers. The law consolidates the three-instance court system in Latvia. On that basis, five regional courts were created anew in Latvia and the Supreme Court with its Chambers was transformed to serve as the court of appeals, with the Senate serving as the court of cassation appeals.

On 3 October, 1995 the Plenary Session of the Supreme Court passed the decision «On Establishing Senate Depart-

ments and Court Chambers of the Supreme Court of the Republic of Latvia» creating the current structure of the Supreme Court and approving the composition of the Chamber of Civil Cases, the Chamber of Criminal Cases, and the Senate Departments of Civil Cases and Criminal Cases. Chairs of Chambers and Departments were elected. The Department of Administrative Cases started work in February 2004.

Rehabilitating those subject to repression

From December 1991 to the end of 2004, the Rehabilitation Division operated in the Supreme Court under the law "On rehabilitation of persons subject to illegal repression". The task was to review criminal cases and prepare materials for rehabilitating those convicted by judgments of military tribunals or courts during the period of Soviet occupation.

The Rehabilitation Division studied the archive materials of criminal cases and drew more than 30 000 conclusions regarding those who were subject to repression, and issued rehabilitation certificates to about 12 250 persons. Rehabilitation was declined to 2545 persons. Almost since the very start the Rehabilitation Division was run by Biruta Puke, who for 14 years listened to tragic life stories, searching archive documents, requesting references from archives of Ministries of the Interior of different regions of Russia - most often, Krasnoyarsk and Magadan, as well as of the Komi ASSR and the Republic of Kazakhstan. At the beginning if arguments regarding rehabilitation were absent, the staff of the Supreme Court prepared conclusions without reviewing the cases anew. This was the only chance to give prompt answers to people, and the number of applications was enormous. When the consultants were able to work in the archive, conclusions were also prepared regarding all other persons convicted in the case. Later, in all cases within the jurisdiction of the Supreme Court conclusions were prepared on all persons who were subject to repression. If there was no application regarding a person, the court staff themselves tried to find the place of residence of the person subject to repression or their relatives to notify them about rehabilitation. Usually people were deeply moved, since they had no knowledge about how to deal with the issue and where to look for documents.

The Rehabilitation Division also issued various references to those who had been subject to repression and their relatives – regarding seizure of property, places of imprisonment and deportation, participation in the national resistance movement, statement of the fact of death. Under the law of 27 April 1995 "On determining the status of a person having been subject to political repression regarding victims of the communist and Nazi regimes", the state conducts historical research into the fate of these persons. Documents prepared by the Supreme Court Rehabilitation Division are included in a joint collection of documents which will enable evaluation of the fate of people during the relevant period.

Within the scope of its competence and resources, the Supreme Court Rehabilitation Division has been cooperating with the Latvian National Museum of History, the Museum of the Occupation of Latvia, and the Latvian War Museum: materials submitted have been useful during commemoration days, for creating publications and exhibitions about those who were subject to repression.

Joining the European judiciary

Rapid changes in the economic and political life of the country, a change in the attitude towards property, processes of denationalization and privatization, differentiation of society and problems related to crime, reform of the courts and the law and other processes made the Supreme Court develop, requiring professional development from judges. The latest

stage of development is linked to changes in the life of the country after joining the European Union. Legal awareness is increasing, and with it the need to improve standards of court adjudication procedure, the ability to interpret legal provisions in accordance with requirements laid down for courts as Latvia has become part of European democratic society. We must study the European base of standards, the case-law of the Court of the European Communities and the European Court of Human Rights and introduce provisions in line with the level of European courts. Principles of human rights and administrative procedure have started to function.

Membership of the European Union has led to cooperation between the Latvian Supreme Court and courts of other countries and international institutions; regular exchange of experience takes place among national Supreme Courts and specialists in a number of fields.

The Supreme Court of Latvia participates in the following international associations:

- On 10 March 2004 in Paris, with the participation of 24 representatives from the Supreme General Jurisdiction Courts of the Member States and Candidate States of the European Union, the Network of the Presidents of the Supreme Law Courts of the European Union was established including the Supreme Court of the Republic of Latvia. Under the Association's Statutes the Presidents of the Supreme Law Courts of the European Union as physical persons are members of the Association. A meeting of participants in the shape of a General Assembly is convened once every two years. The key goal of the Association is to promote exchange of views and experience regarding case-law, and organization and functions of Supreme Courts, especially in relation to applying European Community law. Communication and exchange of information between members, observers, and EU institutions is also a significant factor facilitating harmonisation of laws.
- Since 2004, the Supreme Court of Latvia has been a member of the Association of State Councils and Supreme Administrative Courts of EU Member States. The Association aims at mutual exchange of information and consultations regarding administrative procedures, arrangement of joint colloquiums once every two years, with interim research projects of interest to members, and training. Senators of the Department of Administrative Cases are involved in different professional cooperation programmes.

The Supreme Court maintains contacts with the European Court of Justice and the European Court of Human Rights and their judges. Judges and staff of the Supreme Court visit the highest European judicial instances to gain experience, while Latvian representatives in these courts – Egils Levits, Ineta Ziemele, and Ingrida Labucka – regularly meet with judges of the Supreme Court to share their experience. Senator Jautrite Briede has participated in the work of the European Court of Human Rights as an *ad hoc* judge.

The Supreme Court has organized several significant international conferences:

2005 – the 15th Anniversary Conference of the Supreme Court «Development of the Supreme Court of Latvia: review and lessons for the future from the European experience»;

2006 - in cooperation with the American Board of Trial Advocates – «Judges and advocates in interaction: commonalities and differences in the Latvian and American legal systems»;

2007 - in cooperation with the US Embassy in Latvia and the Ministry of Justice – «Judicial Reform, Ethics, and Transparency».

2006 – 2007, the Supreme Court implemented the *Twinning Light* project in cooperation with the Judicial Training Centre supervised by the Ministry of Justice of Spain on «Strengthening the administrative capacity of the Supreme Court for creating an effective system of docketing, record-keeping and personnel management».

The Palace of Justice

With the court being considered «an establishment of culture and a feature of culture», Karlis Ulmanis, President of Latvia, in 1936 admitted the need for a new central building for the judiciary – the Palace of Justice, because judicial bodies located in Riga, including the Senate, the Chamber of Courts, and the Riga Regional Court were suffering from shortage of suitable premises. At meetings on 21 April 1936 and 30 June 1936, the Cabinet of Ministers decided to allow the Ministry of Justice to build the Palace of Justice in the triangle between Brivibas Boulevard, Terbatas Street and Elizabetes Street.

A competition was announced for developing the most suitable project. Eight projects were submitted to competition. The contract for construction of the Palace of Justice was awarded to the construction company of Mr. Vaitnieks. The cornerstone of the Palace of Justice was laid on December 4, 1936 amidst extensive festivities.

The first stage of project construction was completed in less than two years. The first official meeting was held at the Palace of Justice on 18 November 1938 to commemorate the twentieth anniversary of Latvian independence. The Ministry of Justice, the Senate, the Chamber of Courts, the Riga Land Register subdivision, and other institutions dealing with judicial work took seats in the Palace of Justice. However, interior work in the building was

Message

On 4 December 1936 a roll of parchment was placed in the foundation of the Palace of Justice containing the following message: « ...Those who have been given and who will be given in the future the post of independent deliverer of justice in Latvia, shall make sure that the sun of justice shines brightly upon Latvian land and the warmth of fairness is not extinguished in its hearth.»

Hermanis Apsitis, Minister of Justice, at the ceremony dedicated to the foundation-stone of the Palace of Justice in 1936:

«Content has to be embodied in appropriate form; every type of work requires specific conditions, a particular environment and exterior. Just as when attending Church we feel the presence of the divine spirit even before the service has started, each and every person appearing before the court should feel impressed by the lofty ideals and goals of the judiciary. Serving justice and truth in good faith and devoting all our knowledge and ability to this cause is also serving the Creator. Hence, every nation of some cultural standing tries to create spacious and handsome court buildings that are similar to temples. We, too, have followed this course after national matters, including court affairs, could be placed above personal matters and group interests, and all sectors of life have started to run smoothly.»

Silver-covered copy of the Civil Law

The cornerstone of Latvian civil law – the Civil Law issued in 1937. At the festive meeting celebrating the day when the Civil Law came into effect, K.Ulmanis, then President of Latvia, presented the members of the drafting committee with silver-covered, leather-bound copies of the Civil Law. One copy presented to Senator Augusts Lebers is kept in the Supreme Court Museum. The Civil Law consisted of 2400 sections and was one of the best and most advanced laws in Europe. During Soviet occupation, Latvian legislation was terminated, but was restored with independence. The Civil Law of the Republic of Latvia was restored in 1992.

Visitors' book

The Supreme Court Visitors' book contains signatures of schoolchildren and students who visit the Supreme Court during open days, as well as VIPs paying working visits to the Supreme Court. The Visitors' book contains the signatures of Presidents Vaira Vike-Freiberga and Valdis Zatlers, entries from Samuel Alito, Justice of the Supreme Court of the USA, and judges from Lithuania, Hungary, Rumania and elsewhere.

still going on. The formal opening of the Palace of Justice was held on 9 December 1938.

The Palace of Justice contained 130 court rooms, offices, and chancery premises. The exterior walls and sections of the facade of the Palace of Justice are covered with local Latvian granite. The interior contains details in the style of Latvian folk art. Construction costs amounted to LVL 2 479 700. Craftsmen and builders worked for 250 000 days in total. The Senate occupied the second floor of the newly constructed palace. Its court room bore the following inscription: «One law, one justice for all».

Fridrihs Skujins, architect of the Palace of Justice, was Senior assistant at the Latvian University Faculty of Architecture. If the second part of the building, designed for courts of lower instance, was completed, the Palace of Justice would become the seat of all judicial institutions in the capital. However, the architect did not live to see his ideas implemented. When the Soviet regime wound up the Senate in 1940, the handsome premises of the Palace of Justice became home to various Soviet government institutions, such as the LSSR Council of Ministers, the State Planning Committee, and others. The second stage of construction of the Palace of Justice went on, but the rest of the building was put to other use.

After the Latvian courts regained their independence, the Supreme Court returned to the Palace of Justice on 23 April 1996. However, part of premises was still occupied by the Cabinet of Ministers, the Ministry of Foreign Affairs, and the Ministry of Justice. The former Senate court room is still at the disposal of the Cabinet of Ministers.

«Administering justice means not only the responsibility of rendering a judgment; it is also a responsibility towards people!» – runs the entry of State President Valdis Zatlers in the Visitor's book of the Supreme Court Museum dated 21 August, 2007.

The Supreme Court Museum

The Supreme Court Museum was created in 1998 on the eightieth anniversary of the Supreme Court Senate. The foundation of the museum was greatly facilitated by Dietrich Andrejs Lebers, son of Senator Augusts Lebers. Senator Lebers emigrated to Germany during the Soviet occupation, where he died on February 14, 1948.

The museum contains historical evidence and documents dating back to 1918. These testify to the beginnings of the Supreme Court Senate, the opening of the Palace of Justice on 9 December 1938, the senators and their fate during the Soviet period.

In October 2005 when celebrating the 15th anniversary of restoration of the Latvian Supreme Court, the museum was supplemented with an exhibition about the period from the national Awakening to the present time. Separate stands are devoted to the events of 1990, restoration of the three-instance court system in 1995, as well as activities of the Rehabilitation Division. The display includes historic decisions of the Supreme Council and the Plenary Session of the Supreme Court, the initial Supreme Court reorganisation project, a rehabilitation certificate, and other items. Gvido Zemribo, the first Chief Justice of the Supreme Court, significantly contributed to development of the exhibition. The museum is open to the general public when the Supreme Court holds its open days. However, the museum also welcomes interested guests on other days.

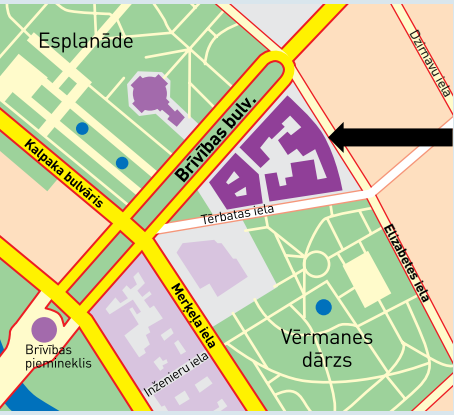
Suitcase

The museum displays a suitcase used for carrying the files of persons subjected to repression from the State archive of Latvia to the Supreme Court Rehabilitation Division. During its 13 years of activity, the Rehabilitation Division has examined court materials on criminal cases from the archive and made more than 30 000 decisions about those subjected to repression and convicted by verdicts of courts or courts martial.

The Supreme Court of the Republic of Latvia

Address: Brivibas Boulevard 36, Riga, LV-1511
Telephone: +371 67020350
Fax: +371 67020351
E-mail: at@at.gov.lv

Web site: www.at.gov.lv



Office hours:
Weekdays 8.30 – 12.00 and 12.30 – 17.00;
Fridays to 16.00

Visiting hours:
The Senate Chancery,
Chancery of the Chamber of Civil Cases,
Chancery of the Chamber of Criminal Cases,
the Appeals Division and
the Document Administration Division:
Monday 9.00 -12.00 and 13.00 - 17.45;
Tuesday, Wednesday, Thursday 9.00 -12.00 and 13.00 - 16.45;
Friday 9.00 -12.00 and 13.00 - 15.45
On pre-holiday days the reception hours till 15.00

For details of court materials: every weekday till 15.00.
Case participants should apply to
the Senate Chancery:

Department of Civil Cases,	telephone: +371 67020364
Department of Criminal Cases,	telephone: +371 67020370
Department of Administrative Cases,	telephone: +371 67020339
Chancery of the Chamber of Civil Cases,	telephone: +371 67020347
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To make an appointment, please call: the Communications Division on +371 67020396