

## **1. Election of the President of the Republic**

An Estonian citizen by birth who has attained forty years of age may be nominated as a candidate for President of the Republic. The President of the Republic shall be elected for a term of five years. No one shall be elected to the office of President of the Republic for more than two consecutive terms. The right to nominate a candidate for President of the Republic rests with not less than one-fifth of the membership of the [Riigikogu](#).

According to Section 79 of the [Constitution of the Republic of Estonia](#), the President of the Republic shall be elected by the Riigikogu by secret ballot. Each member of the Riigikogu shall have one vote. A candidate in favour of whom a two-thirds majority of the membership of the Riigikogu votes shall be considered elected. If no candidate receives the required majority, a new round of voting shall be held on the next day. Before the second round of voting, a new nomination of candidates shall be held. If no candidate receives the required majority in the second round of voting, a third round of voting shall be held on the same day between the two candidates who receive the greatest number of votes in the second round. If the President of the Republic is still not elected in the third round of voting, the Chairman of the Riigikogu shall, within one month, convene an electoral body to elect the President of the Republic. The electoral body shall be comprised of members of the Riigikogu and representatives of the local government councils. Each local government council shall elect at least one representative, who must be an Estonian citizen, to the electoral body. The Riigikogu shall present the two candidates who receive the greatest number of votes in the Riigikogu to the electoral body as candidates for President. The right to nominate a candidate for President also rests with not less than twenty-one members of the electoral body. The electoral body shall elect the President of the Republic by a majority of the voting electoral body members. If no candidate is elected in the first round, a second round of voting shall be held on the same day between the two candidates who receive the greatest number of votes.

The specific procedure for the election of the President of the Republic is established by the President of the Republic Election Act.

## **2. Assuming office, legal status, and termination of powers**

The beginning and expiry of the powers of the President of the Republic shall be established by the [President of the Republic Work of Procedure Act](#).

The President of the Republic shall assume office by swearing the following oath of office at the Riigikogu:

"In assuming the office of President of the Republic, I (given name and surname), solemnly swear to steadfastly defend the Constitution and the laws of the Republic of Estonia, to exercise the power entrusted to me in a just and impartial manner, and to faithfully perform my duties with all of my abilities and to the best of my understanding, for the benefit of the people of Estonia and the Republic of Estonia."

Upon assuming office, the authority and duties of the President of the Republic in all elected and appointed offices shall terminate, and he or she shall suspend his membership in political parties for the duration of his term of office.

The President of the Republic enjoys immunity in accordance with Section 85 of the [Constitution](#).

Criminal charges may be brought against the President of the Republic only on the proposal of the Legal Chancellor, and with the consent of the majority of the membership of the Riigikogu. This issue is more specifically regulated by the

[Code of Criminal Procedure](#)

. The powers of the President of the Republic shall be suspended when criminal charges are brought against him.

The powers of the President of the Republic shall terminate upon his resignation from office (not applicable during a state of emergency or a state of war), the entry into force of a conviction by a court against him or her, his or her death, and the assumption of office of the new President of the Republic.

If the President of the Republic is incapable of performing his duties for an extended period as decided by the [Supreme Court](#), or if he or she is temporarily unable to perform them as in cases specified in the [President of the Republic Work of Procedure Act](#), his powers shall be suspended. In such cases, his or her duties shall temporarily be transferred to the Chairman of the Riigikogu. During the time when the Chairman of the Riigikogu is performing the duties of the President of the Republic, his powers as a member of the Riigikogu shall be suspended. The Chairman of the Riigikogu, acting as President of the Republic, has a more restricted competence, as he does not have the right, without the consent of the Supreme Court, to declare extraordinary elections to the Riigikogu or to refuse to proclaim laws.

If the President of the Republic is unable to perform his official duties for longer than three

consecutive months, or if his powers terminate prematurely, the Riigikogu shall elect a new President of the Republic within fourteen days.

### **3. Powers of the President of the Republic**

The powers of the President of the Republic as the Head of State are established in Section 78 of the Constitution and more specifically in the [President of the Republic Work Procedures Act](#) and other specific laws.

#### **3.1. Powers and responsibilities in international relations**

The President of the Republic represents the Republic of Estonia in international relations. Proceeding from the fact that the [Government of the Republic](#) organises relations with other states, the President of the Republic co-ordinates his activities with the Government.

The President of the Republic has both active and passive right of embassy. He or she shall appoint and recall diplomatic agents of the Republic of Estonia, on the proposal of the Government of the Republic, and receive the credentials of diplomatic agents accredited to Estonia. In concluding international treaties, it is the competence of the President of the Republic to ratify or denounce treaties, i.e. to sign them after they have been approved by the Riigikogu. According to Section 121 of the [Constitution of the Republic of Estonia](#), such treaties are those, which alter state boundaries; the implementation of which requires the passage, amendment or repeal of Estonian laws; those by which the Republic of Estonia joins international organisations or unions; those by which the Republic of Estonia assumes military or proprietary obligations; and those in which ratification is prescribed. The President's sole competence in foreign relations is declaring a state of war and proceeding therefrom, also the end of the war, in the case of aggression against Estonia, as well as making the proposal to the Riigikogu to declare a state of war, to order mobilisation or demobilisation, and a state of emergency.

On the proposal of the Government of the Republic the President confers diplomatic ranks that are conferred for life.

The President's role, as well as his relations with other constitutional institutions are set down more specifically in the Foreign Relations Act and the Foreign Service Act.

#### **3.2. The President's Role in Domestic Affairs**

##### **3.2.1. Powers in National Defence**

The competence of the President of the Republic in the field of national defence shall be specified by the [National Defence Act](#), the [State of Emergency Act](#) and the [Military Service Act](#).

### 3.2.2. Responsibilities in regard to the Riigikogu

The President and the Riigikogu are connected by several formal and substantive powers of the President. The President of the Republic declares the regular elections to the Riigikogu, convenes and opens the first session of the new membership of the Riigikogu. The President has the right to convene additional and extraordinary sessions of the Riigikogu in cases as stated by law.

In cases provided in the Constitution, the President of the Republic shall dissolve the Riigikogu and declare the extraordinary elections of the Riigikogu. The President of the Republic shall declare the extraordinary elections of the Riigikogu after the Prime Minister candidate designated by the President has two times failed to form a government, and the Riigikogu has presented its own candidate, who has in his turn failed to present his government membership to the President. The President shall also declare extraordinary elections to the Riigikogu if a referendum initiated by the Riigikogu does not receive a majority of votes in favour. The powers of the Riigikogu terminate prematurely also if the Riigikogu has not passed the state budget within two months after the beginning of the budgetary year; also in this case the President of the Republic shall declare extraordinary elections to the Riigikogu.

The third reason for terminating the powers of the Riigikogu differs from the first two, as here the President of the Republic has to decide whether to declare the extraordinary elections of the Riigikogu or not. The President may declare extraordinary elections also in case of the expression of no confidence in the Government of the Republic or the Prime Minister by the Riigikogu.

The relations between the President and the Riigikogu are specified in the [Riigikogu Rules of Procedure and Internal Rules Act](#).

### 3.2.3. Responsibilities in regard to the Government of the Republic

President of the Republic designates the Prime Minister candidate, to whom he assigns the task of forming the Government. The Prime Minister candidate, who has been authorised by the Riigikogu to form the Government, presents the membership of the government to the president of the Republic, who shall appoint the government to office. The President shall make changes to the appointed membership of the Government of the Republic i.e. release and appoint

ministers, on the proposal of the Prime Minister.

The relations between the Government of the Republic and the President of the Republic are specified in the Government of the Republic Act.

#### 3.2.4. Responsibility in regard to legislation

The President of the Republic shall proclaim the laws passed in the Riigikogu. This is the sole competence of the President of the Republic in which no other constitutional institution is involved. The President of the Republic may also refuse to proclaim a law passed by the Riigikogu and return it together with his reasoned resolution to the Riigikogu for a new debate and decision. The President has the right to control both the provisions of substantive and procedural law. If the Riigikogu again passes the law, which is returned to it by the President of the Republic, unamended, the President of the Republic shall proclaim the law or shall propose to the Supreme Court to declare the law unconstitutional. If the Supreme Court declares the law constitutional, the President of the Republic shall proclaim the law. During the term of office of the VII and the VIII Riigikogu the President of the Republic has refused to proclaim 33 laws, and turned to the Supreme Court on 8 cases. The Supreme Court decided in favour of the Head of State on 7 cases.

If the Riigikogu is unable to convene in a situation of emergency, the President of the Republic may, in matters of urgent state need, issue decrees which have the force of law, and which shall bear the counter-signatures of the Chairman of the Riigikogu and the Prime Minister. These decrees cannot be used to amend the Constitution or the so-called constitutional laws (see Section 104 of the [Constitution](#)). The Riigikogu shall pass a law for the confirmation or repeal of these decrees on the next meeting. Thus, the decrees are a specific measure for maintaining governmental order, and in this case the President is acting as the guarantor of the rule of law in the state.

According to the Constitution, President of the Republic does not have the right to initiate laws, with the exception of amendments of the Constitution.

#### 3.2.5 Powers to appoint and release public servants

The Head of State designates the Prime Minister Candidate, whom the Riigikogu shall authorise to form the Government of the Republic. He or she appoints and releases members of the Government on the proposal of the Prime Minister, the President of the Bank of Estonia on the proposal of the Board of the Bank of Estonia, county justices, administrative justices and circuit justices (i.e. the justices of I and II level) on the proposal of the Supreme Court. Being appointed by the President gives certain social respect to the public servant, enables control

over the legality of the appointment, and provides the appointment with more publicity and gives a sense of stability to the public servant.

The President shall make proposals to the Riigikogu for the appointment of the following senior public servants: Chief Justice of the Supreme Court, Chairman of the Board of the Bank of Estonia, Auditor General and Legal Chancellor. The appointment and release of public servants is executed in accordance with the procedures established by the [President of the Republic Work Procedures Act](#) .

### 3.2.6. Responsibilities regarding decorations

Conferring state decorations is the sole competence of the President of the Republic. It is a common practice in the world that the Head of State confers state decorations.

The state decorations of the Republic of Estonia, as well as the procedures for applying for decorations and conferring decorations are provided by the [Decorations Act](#) .

### 3.2.7. The President's right of clemency

The President has the sole right to release or grant commutation to convicted offenders at their request by way of clemency. Clemency presumes that the court has already pronounced the convicting sentence and the individual in question has been transferred to the hands of executive bodies for the enactment of penalty. It is an international tradition that the Head of State may use his free will to enact justice after the court has guaranteed the enactment of law.

### 3.2.8. Criminal charges against the Legal Chancellor

The President makes the proposal to bring criminal charges against the legal chancellor. The President shall make the proposal to the Riigikogu on the application of the public prosecutor. He or she has the right to study the documents relevant to the case.

The President's role is provided in the [Code of Criminal Procedure](#) .