

Women's Access to the Profession of Judiciary in Estonia in 1920s-1940s: Rules and Reality¹

*Merike Ristikivi, Marju Luts-Sootak,
Heli-Triin Räs*

Estonian women were allowed to study law already in the early years of the twentieth century and the possibilities to obtain a law degree expanded with the foundation of the Republic of Estonia in 1918. Nevertheless, it turned out to be much harder to start working in the chosen field: before the Second World War, out of 143 women who had graduated the faculty of law, only 42 were practising attorneys. The first female notary started to work only in 1936.

In the 1920s, two Estonian female lawyers tried to run for the judicial office. Auguste Susi-Tannebaum and Olli Olesk had graduated from the Faculty of Law at the University of Tartu and were the members of Estonian Bar Association. However, their applications (from 1924 and 1929) for the candidacy to the judge's profession were rejected. Both women contested the negative decisions in the Supreme Court. The Supreme Court was guided by the principle of gender equality and expressed implicitly its opinion that female lawyers cannot be excluded from the candidacy on the grounds of gender. Regardless of the Supreme Court's opinion, it was possible to exclude women from the competition for judge's position on the basis of the law which granted the President of the National Court of Appeal an exclusive right to decide on the suitability of candidates, without the obligation to justify the decision. During the period of Estonia's first independence period between two World Wars only one person, Jaak Reichmann, was on this decisive position. As a result, women were deprived of the opportunity to become judges in the 1920s and 1930s. No female lawyer did become a judge in Estonia before the Second World War and the first female judges were appointed in the first Soviet year of 1940–1941. During the 1940s, repressions and replacement of previous lawyers offered new employment opportunities for women. Regrettably, several women who were appointed judges from 1940 to 1941 had no higher education in law and some of them did not even have any kind of legal education. In this period, it was not a priority to have a legal education, because the loyalty to the Soviet regime was a more important prerequisite.

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I. INTRODUCTION

Estonian women had the opportunity to start acquiring higher legal education in the early years of the 20th century as Estonian territories were under the rule of Russian Empire.² According to the order of the Tartu University³ Council of 1905, female students could start their studies as auditors, since 1917 women have been admitted to the University on an equal footing with men. Nevertheless, it turned out to be much harder to start working in the field of specialization after the completion of studies. Before the Second World War, out of 143 women who had graduated the faculty of law at the Estonian University of Tartu,⁴ only 42 were practising attorneys.⁵ As the first female notary in 1936, Ilma Sarepera became the only woman among the notaries before the Second World War.⁶ Nevertheless, the first female judges were appointed during the Soviet Era in the period of 1940–1941. It does not mean, that female lawyers did not try to run for the judicial office.

In Europe and in the Nordic countries in particular, female lawyers had taken up professional work a few decades earlier.⁷ Scandinavian countries were among the first to give women the right to enter the Bar Association. In Sweden, women were allowed to work in the courts already in 1897.⁸ Although the Oslo Bar Association in Norway had voted in favour of the right of women to become attorneys already in 1895, the right to practice in legal fields was granted to women in Norway only in 1904 and the first female judges took office there in the mid-1920s.⁹ The Danish legislator opened the doors of the Bar Association for women in 1906.¹⁰ In Finland, which was also under the Russian imperial rule authority from 1809 until the end of the Empire, women were allowed to partici-

² For more information on higher education for women before 1918, see Leppik, 'Naiste haridusvõimalustest', pp. 34–52; Kivimäe and Tamul, 'Eesti naiste kõrgkooli õpingud', pp. 213–252; Tamul, 'Konfession und nationale Herkunft', pp. 555–581; Whelan, 'The debate on women's education', pp. 163–180.

³ In year 1892, the city of Tartu (Estonian)/Dorpat (German) was recalled as Russian Jur'jev and the German University of Dorpat became the Russian University of Jur'jev. On the law faculty in this period see Anepaio, 'Die russische Universität in Jur'jev'.

⁴ Between the two world wars, 1618 students graduated from the Faculty of Law, of which 1475 were men and 143 women (or 8.8% of law students). Karjahärm and Sirk, *Vaim ja võim*, p. 145.

⁵ More than half of them, i.e. 22 women were sworn in as attorneys in the 1930s, while the other 20 remained as assistants of attorneys until 1940. For details, see Eesti Vabariigi Vannutatud Advokaatide Nõukogu aruanded 1927–1939.

⁶ For a closer look at I. Sarepera and Estonia's first female notaries, see Ristikivi and Räis, 'Eesti esimesed naisnotarid', pp. 114–134. The next female notaries were appointed by the Soviet authorities in the autumn of 1944 during the opening of notarial offices, but none of them had a higher level of legal education.

⁷ For more details on the educational and employment opportunities of the first female lawyers in Europe and the world, see Albiseti, 'Portia ante Portias', pp. 825–857; Women in the world's legal professions; Mossman, *The first women lawyers*.

⁸ About the professionalisation of Swedish female lawyers, see Svensson, *Forskaren Elsa Eschelsson*.

⁹ More about the first female lawyers in Norway, see Støren, *Justitias døtre*.

¹⁰ Dübeck, 'Lærde damer', pp. 11–30, also Dübeck, 'Reflexionen über Frauen', pp. 19–29.

pate incourt trials as representatives already in 1895.¹¹ The first female judge, Katri Hakikila, was appointed in Finland in the 1930s. It was such a remarkable event that the male judges were curious to see the first female judge (especially at the beginning of her career) and occasionally took a look in her office.¹² At the same time, it should be noted that, compared to a number of other professions requiring academic education, there were remarkably few women in the legal professions in Finland prior to the Second World War. In 1930, for example, only one woman acted as an attorney – Agnes Lundell, who had entered office in 1911.¹³ Although Finnish women had already obtained electoral rights in 1906, and more and more women took part in the work of the Finnish Parliament year-on-year, there was still a strong prejudice in society as to the suitability of women for the profession of a lawyer.¹⁴

As nearly a third of women who graduated from the faculty of law of the University of Tartu were employed as attorneys in Estonia between the two world wars, it seems that compared to Finland, the career of Estonian female lawyers was more successful.

The First Constitution of the Republic of Estonia, adopted on 15 June 1920¹⁵ and entered into force on 21 December 1920, also provided for gender equality in section 6:

All Estonian citizens are equal in the eyes of law. There cannot be any public privileges or prejudices derived from birth, religion, sex, rank, or nationality. In Estonia there are no legal class division or titles.

Formally, therefore, there were no constitutional barriers which would have prevented women from applying for a judicial post.¹⁶ Nor can it be said that female lawyers would have had no interest in the judge's office. After all, the work in the judicial system is a traditional career perspective for lawyers with academic education, alongside the profession of attorney and notary, or even above all other legal professions.

This article examines the applications for the judicial office of two female lawyers, Auguste Susi-Tannebaum and Olli Olesk, as well as the conduct and justification for their rejection. On the basis of this material, Susi-Tannebaum's referral to the Supreme Court on the issue of the protection of fundamental rights has previously been examined.¹⁷ Ho-

¹¹ Korpiola, 'Attempting to advocate', p. 299.

¹² For more information on career opportunities for Finnish female lawyers, see Silius, 'Women jurists in Finland', 389.

¹³ Korpiola, 'Attempting to advocate', p. 293.

¹⁴ Ibid., pp. 294–296. For a critical attitude towards female lawyers at the beginning of the 20th century, see also Albisetti, 'Portia ante Portas', pp. 842–844.

¹⁵ Riigi Teataja [State Gazette], 09.08.1920.

¹⁶ The 1920 Constitution was rather progressive for its time, containing provisions for social and economic human rights. At the same time, there were problems with gender equality in the sphere of private law. For more details, see Leppik, 'Soolise võrdõiguslikkuse küsimus', pp. 341–361; for the wider context Siimets-Gross and Leppik, 'Estonia: first landmarks', pp. 304–307; Siimets-Gross, 'Social and economic fundamental rights', pp. 135–143.

¹⁷ E.g. Anepaio, 'Eesti Vabariigi Riigikohus' (1999), pp. 41–43; Siimets-Gross, 'Social and economic fundamental rights', p. 139; detailed from the special perspective of constitutionality Leppik, 'Soolise võrdõiguslikkuse küsimus', pp. 351–353.

wever, it has not previously been further analysed why, despite the favourable ruling of the Supreme Court, these women did not become judges. In this context, the factors and regulations that had an impact on the career of female lawyers in judicial office are also important: who could become judges and the level of education of judges. Therefore, we first give an overview of the courts administration and the conditions for becoming a judge in 1920s. Article concludes with the closer look at the beginning of the Soviet period when the first female judges were appointed to the various judicial posts.

II. ESTONIAN COURTS ADMINISTRATION BETWEEN TWO WORLD WARS

Although the independence of the Republic of Estonia was declared on 24 February 1918, due to the German occupation of Estonia, it was not until the end of 1918 when the organisation of the courts system was started in Estonia.¹⁸ Relying on the Order of the Provisional Government of 18.11.1918 on the establishment of temporary courts,¹⁹ the Deputy Prime Minister and Minister of Justice Jaan Poska issued an order to restore the activities of pre-revolutionary judicial institutions reestablished in Estonia from 2 December 1918. Instead of previous legal languages – German and Russian – Estonian became the working language of the courts. As a general rule, the courts had to work under the same laws as the courts in Tsarist Era. Prior to the adoption of new laws or the amendment of the former laws, the legislation in force on the territory of Estonia before the Bolsheviks came to power in Russia was considered to be valid in Estonia. The general laws and regulations issued by the German occupying authorities remained in force on a temporary basis.

Instead of the highest national court of the Russian Empire, the Ruling Senat, the Supreme Court of the Republic of Estonia was established in 1919 as the highest national court, which was also granted all rights belonging to the previous highest judicial authorities of Tsarist Russia.²⁰

Although section 1(b) of the Regulation on the Establishment of Temporary Courts provided that parish courts and the supreme peasant courts would be abolished, the parish courts remained, and their competence remained with regard to the tutelage, welfare and guardianship over the estates.²¹ The supreme peasant courts were liquidated and

¹⁸ The justice system created by Russian Empire in the course of the 1864 judicial reform was introduced as modified under the Baltic governorates' courts administration reform laws in November 1889 also in the Baltic Provinces and was in principle in force here until the 1917 October revolution, constituting initially the basis for the establishment of the Estonian national courts administration. For more information on the development of the courts administration, see Anepaio, 'Eesti Vabariigi kohtute kujunemine', pp. 33–38; shortly also Anepaio, 'The Supreme Court', pp. 110–111.

¹⁹ Riigi Teataja [State Gazette], 1918, 1, from 27.11.1918.

²⁰ For the establishment and jurisdiction of the Supreme Court, see Anepaio, 'Eesti Vabariigi Riigikohus', pp. 26–27.

²¹ Riigi Teataja [State Gazette], 1919, 4, pp. 26–27. For more information about parish courts, see Anepaio, 'Vallakohus', pp. 343–368.

their assets handed over to the peace councils. The peace councils acquired the competence of the previous district courts, i.e. became the first instance in the judicial system.²² Besides, the peace councils obtained permanent members and, in addition to reviewing the decisions of the peace courts in the appeal procedure, they were also subject to greater claims and more serious criminal matters, which were previously the jurisdiction of the district courts. In place of the latter, a new instance of appeal was created – the Tallin Circuit Court, which was renamed the National Court of Appeal (Kohtupalat) in 1920 and, in 1935, as regards the reorganisation of the names of judicial authorities and civil servants as the Kohtukoda. Peace courts from the time of Russian rule were later named as district courts.²³

As a complete novelty, in 1919, administrative courts were established.²⁴ In the activity report of the Ministry of Justice presented at the meeting of the Estonian Constituent Assembly on 26 April 1919, the Minister of Justice Jüri Jaakson stressed that there was an urgent need for administrative courts to be created in Estonia, as it was not possible to file a complaint against an official during the Russian regime.²⁵ Thus, citizens were given an opportunity to sue government agencies and thereby have their activities checked for legality.

From the general courts, minor matters were discussed as a first instance by the peace judge, as a second instance by the peace council and as a third by the Supreme Court. In major matters, the first instance was the peace council, the second was the National Court of Appeal and the third was the Supreme Court. A number of special courts²⁶ were also active alongside the general courts, including: the peace courts where the 1864 Peace Court Penalty Code and their own civil and criminal procedure laws were in force; peace councils (since 1935 circuit courts); in this respect, one must distinguish between: a) the peace councils as the appellate body of the peace court where the same laws as in the peace courts were applicable; and b) the peace courts as the general courts of first instance²⁷ and their own civil and criminal procedure codes, which were the same as in the National Court of Appeal and the Supreme Court; court martials that had their own procedural law and penal law; military courts with their special procedure and the so-called “military penal law” as of 1 March 1917;²⁸ administrative court with its own special pro-

²² Anepaio, 'Eesti Vabariigi kohtukorralduse kujunemine', p. 25.

²³ The district courts were exclusive courts which, as a court of first instance, dealt with claims of up to a thousand kroons and criminal cases where the penalty was primarily a fine, an army or a prison house. Claims for heritage and alimony were subject to the district court regardless of the amount. The district judge was also the head of the land registry office, and he could also be assigned the duties of a court investigator. Schneider, *Kohtud Eestis*, p. 26.

²⁴ Administrative court procedure, p. 23. For more information on administrative courts during the inter-war period, see Pilving, 'Die Schaffung und Entwicklung', pp. 46–48; Pilving and Ernits, 'Verwaltungsgerichtsbarkeit', pp. 1601–1604.

²⁵ Eesti Vabariigi sisepoliitika 1918–1920, p. 302.

²⁶ Anepaio, *Eesti Vabariigi kohtunikekorpus*, pp. 37–38; Anepaio, 'Kriminaalõiguse muutmiseist', pp. 139–158.

²⁷ About the implementation problems caused by these and their parallel existence, see Sedman, 'The historical experience' and Sedman, 'Karistusseaduste paljusus', pp. 179–183.

²⁸ More about the military penal law and procedure, see Sedman, 'The historical experience', pp. 227–235;

cedure; the guardianship and custodianship courts in the cities by their own order and in the country, the parish courts as the guardianship and custodianship courts under the old status-based parish courts law; as well as the tenancy mediation institutions and the Committees of the Ministry of Interior.

One of the most complex problems was finding of judges with appropriate education for these different types of judicial authorities. It was difficult because Russian lawyers and officials who worked in the courts during the Tsarist Era had left, so there was not enough people with judge experience. In general, it was not possible for Estonian lawyers to become a judge in Estonia or Livland during the Tsarist Era. Thus, many lawyers with higher education had gone to court work in other areas of the Tsarist Russia or had chosen the profession of an attorney.²⁹

All judicial authorities in the Republic of Estonia had to start work from December 2, 1918.³⁰ The country didn't have time to prepare the judges. Therefore, the people who existed and wanted to do the court work had to be used. Consequently, on 22 November 1918, the Ministry of Justice issued a call for "Lawyers and court officials":

*Persons who have received legal education as well as those who have served before the judicial authorities and wish to serve in the courts of the Republic of Estonia as judges or as court investigators or as prosecutors' assistants are asked to disclose their wishes to attend the service.*³¹

Applications had to be submitted to the chairman of the Tallinn Circuit Court.³² Despite the call, only a few lawyers were willing to exchange an attorney's profession for a judge's job. Judicial agencies with their relatively small salaries and responsible work failed to provide equivalent earning opportunities as a private service.³³ The situation started to change in 1924 when the salaries of judicial positions increased, and in the late 1920s the inflow of lawyers who graduated from the University of Tartu increased in the courts. There was therefore plenty of courts and judges in Estonia. Given the low popularity of these posts among male lawyers, women with legal education should have had a pretty good chance of finding work in the courts.

III. REQUIREMENTS FOR TO BECOME A JUDGE

Article 69 of the Constitution of the Republic of Estonia, adopted in 1920, provided that the judges of the Supreme Court are elected by the Riigikogu (Estonian Parliament). According to the Procedure of Appointment of Judges and Court Investigators adopted in

Sedman, 'Military Penal Law', pp. 253–273.

²⁹ See more about Anepaio, 'Eesti kohtutest', p. 60.

³⁰ Riigi Teataja [State Gazette], 1918, 4, 7.

³¹ Riigi Teataja [State Gazette], 1918, 2, 6.

³² Anepaio, 'Eesti Vabariigi kohtukorralduse kujunemine', p. 26.

³³ Anepaio, 'Eesti Vabariigi kohtute kujunemine', p. 35.

30.12.1920,³⁴ only citizens of the Republic of Estonia who were at least 25 years old could be appointed court officials.

Regarding the judges, a requirement was made that the judges of the peace councils (later circuit courts) had to have graduated from the faculty of law of either the Estonian or some former Russian Imperial university. However, the law also allowed persons with lower education to be assigned to the judicial authorities, who complied with other conditions and had the necessary experience. This exception was due to the lack of qualified lawyers in the early years of Estonia's independence. Later, the education requirement was strictly adhered to.³⁵

The level of education of judges in the early years of the Republic of Estonia was particularly low. The then state prosecutor, Richard Rägo, noted that in 1921, out of the peace judges, only 29.3% had legal education, only 2.4% had studied law at university, and only 4.8% had high school education. The vast majority (53.7%) of peace judges were only with urban school (i.e. higher elementary school) education, and 9.7% were home educated.³⁶ Thus, nearly 70 percent of the peace judges at that time were without any legal education. Also, in 1934, one of the 19 judges of the Tallinn-Haapsalu Peace Council had no higher education, while the out of the 15 permanent judges of the Tartu-Võru Peace Council, three judges had no legal higher education, with the judges of the younger age group all having legal higher education.³⁷ It can therefore be concluded that the requirement for education was respected in the appointment of new persons, but it did not apply so strictly to those who were already in office. The overall low level of education of the judges could have even encouraged career opportunities for women with university education in the justice system. In any case, they should have started as a candidate for judicial office and that was the position that Auguste Susi-Tannebaum and Olli Olesk sought.

IV. PROCEDURE FOR BECOMING A CANDIDATE FOR JUDICIAL OFFICE

The recruitment of the candidates for judicial office was governed by various legal instruments: On 30 December 1920, the Government of the Republic adopted the Procedure of Appointment of Judges and Court Investigators³⁸; in 1924, the Judicial Authorities and State Public Service Act³⁹ entered into force, according to which the candidates for judicial office were considered to be officials; on March 24, 1927, the Composition of Public Authorities Act⁴⁰ was adopted, according to which the candidates for judicial office were

³⁴ Riigi Teataja [State Gazette], 1921, 2, 14.

³⁵ Anepaio, Eesti Vabariigi kohtunikekorpus, pp. 121–122.

³⁶ Rägo, 'Missugusel määral kohtunikkude', p. 170.

³⁷ Anepaio, Eesti Vabariigi kohtunikekorpus, pp. 140, 142, 171, 172.

³⁸ Riigi Teataja [State Gazette], 1921, 2, 14.

³⁹ Riigi Teataja [State Gazette], 1924, 149.

⁴⁰ Riigi Teataja [State Gazette], 1927, 27.

considered to be freelance employees⁴¹. The candidates for judicial office were appointed at the National Court of Appeal and their adoption was decided by the President of the National Court of Appeal together with the Prosecutor of the National Court of Appeal. They were not required to give reasons for their decisions, either when granting or rejecting the candidacies.⁴² All the time between the world wars, Jaak Reichmann served as the President of the National Court of Appeal.⁴³

In an article published in 1929, the Public Prosecutor Richard Rägo described the posts of candidates for judicial office as the institution of freelance employees.⁴⁴ He considered that the current legislation would not allow them to perform the functions of a judge, one way or another, and that the introduction of the institute of a freelance employee would give the people who are hiring candidates a free hand to remove from the list of candidates at an early stage the persons who are unfit for the post. However, Rägo criticised the procedure for the admittance of the candidates for judicial office in force at the time, that the assessment of the personal qualities of a candidate was essentially left to a single person. Rägo thought that this exclusive decision-making power would make the whole of the future court family dependent on only one person, and it would not be expedient to confer such power on one person. He suggested that it would be beneficial if a collegiate body could assess candidates for judicial office instead of a single official, in order to avoid both the prevalence of personal preferences and post-factum complaints. First of all, Rägo considered that the nomination of candidates for judicial office should be transferred from the National Court of Appeal to the Supreme Court, which was better informed of all the courts of the Republic and their needs in staff affairs. In Rägo's view, in order to decide on the admission of candidates, the Board of Directors of the Supreme Court, or the Presidium, which would include the President of the Supreme Court, its heads of divisions and the Prosecutor of the Supreme Court, could have been set up. He also found that such a college would be sufficiently authoritative.⁴⁵

It is not clear from this article whether Richard Rägo, as one of the factors, was also prompted to write the article because of the fact that the candidature of Auguste Susi-Tannebaum and Olli Olesk had been rejected by the President of the National Court of

⁴¹ Pursuant to § 1 of the State Public Service Act, the freelance employees were public servants serving in the vacant posts provided for in the composition of public authorities or temporarily fulfilling the duties of public servants. Riigi Teataja [State Gazette], 1924, 149, 97.

⁴² Anepaio, *Eesti Vabariigi kohtunikekorpus*, p. 79.

⁴³ Jaak Reichmann (1874–1945), after graduating from St. Petersburg University Law Faculty in 1901, worked as a candidate for the judicial office in Tallinn Circuit Court, later as an attorney in Tartu and Tallinn. During Estonia's first independence period, he was appointed the President of the Tallinn District Court (later, the National Court of Appeal). Reichmann was Minister of Justice of the Republic of Estonia for the period of 1921–1923. At the beginning of the Soviet occupation, he was dismissed as the President of the National Court of Appeal and thus was deprived of a certain position. By summoning the Estonian courts by the German authorities during the Second World War, Reichmann was re-appointed the President of the National Court of Appeal, see Anepaio, 'Kohtupalat', p. 45; 'Jutuajamine kohtukoja esimehe J. Reichmanniga', p. 2.

⁴⁴ Rägo, 'Kohtutegelaste praktilisest ettevalmistusest', pp. 213–216.

⁴⁵ *Ibid.*, 213–214.

Appeal. Here, however, it can also be borne in mind that Rägo himself participated in the deliberations of these cases in the Supreme Court, and, at the time when the article was published, the applications of both female lawyers had been rejected for the post of candidate for judicial office.

V. AUGUSTE SUSI-TANNEBAUM'S APPLICATION FOR JUDICIAL OFFICE IN 1924

Auguste Susi-Tannebaum was the first woman in Estonia to express a desire to become a judge. She was born on 5 February 1900, in Kuban Oblast, Russia, as a schoolteacher's daughter, in 1911–1918, she was studied at the Tallinn Commercial School for Girls. She had already submitted her first application for admission to the Faculty of Law of the University of Tartu on 1 October 1919 and was entered in the list of students on 23 January 1920.⁴⁶ However, as she did not have a school leaving certificate, she studied in the meantime as an auditor at the University of Tartu. Auguste Susi graduated from the Faculty of Law on 5 June 1923.⁴⁷ On December 22 of the same year, she married Feliks Johann Tannebaum.⁴⁸

After graduating from the university, Auguste Susi made a request to the Ministry of Finance on 28 August 1923 to employ her in some department of the Ministry, and a few weeks later, on 15 September, she became secretary there. On 19 October, she was accepted as an assistant of attorney, so on 15 December she asked to be dismissed as the secretary of the Ministry of Finance⁴⁹ and took up her job as an assistant of Johan Aronson⁵⁰, an attorney.⁵¹ On 1 November 1923, Auguste Susi submitted a request to the Tallinn-Haapsalu Peace Council asking the Peace Council to grant her permission to conduct external proceedings in the Tallinn-Haapsalu Peace Council, and on 14.11.1923, a notation has been made on the written request of Auguste Susi-Tannebaum by the aforementioned Peace Council indicating that Susi-Tannebaum as the assistant of attorney has been

⁴⁶ The postponement was not caused by the gender or person of the student candidate. Although the festive opening of the Estonian National University in Tartu took place on 1 December 1919, the Law Faculty had difficulties in finding the teaching staff and thus the activities of Law Faculty begun only at the end of January 1920.

⁴⁷ Born Susi, from 1923 to Susi-Tannebaum, from 1939 after the Estonianization of the surname, Tanner. Estonian National Archives (ENA), EAA.2100.1.15284, pp. 1, 5–7, 14, 19–20, 29, 37.

⁴⁸ ENA, ERA.1357.4.522, p. 11. Feliks (also Felix) Johann Tannebaum (from 1939, Tanner) was born on 10.11.1893, graduated from the division of commerce by the Faculty of Law of the University of Tartu in 1924; 1923–1924 he was an official of the Bank of Estonia in Tallinn, a 1924–1929 bank official in Pärnu, 1929–1932 Director of the Bank of Estonia, 1932–1940 Director of Tartu Bank. Album Academicum, p. 57.

⁴⁹ ENA, ERA.20.2.55, pp. 1, 5, 7–9.

⁵⁰ Johan(n) Aronson was born on 03.05.1879. He was an attorney in Narva since 1905, an attorney in Tallinn from 1919 to 1941. He died in 1947. Vahtre, *Eesti Advokatuuri ajalugu*, p. 214.

⁵¹ The notice sent to the Tallinn-Haapsalu Peace Council of the Council of Attorneys on 20.10.1923: ENA, ERA.1357.4.522, p. 1.

given a permission to conduct proceedings at the second instance of the Tallinn-Haapsalu Peace Council.⁵²

In 1924, Susi-Tannebaum tried to apply for the position of a judge. On 15 February 1924, she submitted a request to the President of the Tallinn-Haapsalu Peace Council, requesting that she be appointed as a candidate for judicial office.⁵³ On the following day, the President of the Peace Council, by order, rejected the request of Susi-Tannebaum on the ground that the Judicial Authorities Act prohibits women from being admitted to judicial office.⁵⁴ Auguste Susi-Tannebaum brought an action against the order of the President of the Peace Council before the President of the National Court of Appeal, in which she stated that, in her view, the Judicial Authorities Act did not contain such a prohibition.⁵⁵ By order of 26 March 1924, Jaak Reichmann, the President of the National Court of Appeal, dismissed the action, stating that the Judicial Authorities Act did not impose any obligations or restrictions on the appointment of the presidents of the court for the appointment of the candidates for judicial office and that, in his view, the appointment of a person as a candidate for judicial office was entirely dependent on the approval of the presidents of the court, so that the president of the court could not be compelled to appoint a candidate for judicial office.⁵⁶

Auguste Susi-Tannebaum decided to proceed and, one month later, on 26 April 1924, lodged a complaint with the Supreme Court seeking an amendment to the order of the President of the Court issued in March. In support of her complaint, she relied on the fact that the President of the National Court of Appeal did not base his order on the reasoning of the President of the Peace Council on the basis of which he had rejected Susi-Tannebaum's request. In her complaint to the Supreme Court, she pointed out that, when rejecting her request, the President of the Peace Council had taken the view that the law did not allow any female citizen to be appointed as a candidate for judicial office. However, in his order of 26 March, the President of the National Court of Appeal had addressed a matter which had not been raised by the President of the Peace Council in the Order of 16 February.⁵⁷

At the regulative meeting on 1 September 1924, the Supreme Court *en banc*⁵⁸ discussed the complaint brought by Auguste Susi-Tannebaum and decided that the order of the

⁵² Ibid., pp. 2, 5, 8. The respective notice was also published in the Annex to the State Gazette 137 of 22.11.1923.

⁵³ ENA, ERA.1356.1.356, p. 2.

⁵⁴ Ibid., p. 4: "Bearing in mind that the Judicial Authorities Act prohibits women from being admitted to judicial office, Auguste Susi-Tannebaum's request for her appointment to the judicial office cannot be accepted, of which Susi-Tannebaum must be informed on 16.02.1924".

⁵⁵ Ibid., p. 2.

⁵⁶ Ibid., p. 8.

⁵⁷ Ibid., p. 2v.

⁵⁸ Composed of Karl Parts, the President, and Peeter Kann, Jaan Lõo, Dmitri Verhoustinski, Johan Arro, Martin Taevere, Harald Johannes Jucum, Victor Karl Maximilian von Ditmar and Anton Palvadre, acting as members. For more detailed information about the staff of the Supreme Court in the period of 1920–1940, see Anepaio, 'Eesti Vabariigi Riigikohus', pp. 30–33. The Public Prosecutor of the Supreme

President of the National Court of Appeal should be annulled and that “he should be obliged to make a new order in this matter in accordance with the law”.⁵⁹ Admittedly, the Supreme Court en banc took the position that, in itself, the deliberations of the President of the National Court of Appeal in the order of 26 March were entirely correct. However, such a debate did not justify the refusal to appoint Auguste Susi-Tannebaum as a candidate for the judicial office, as the initial refusal was justified by the President of the Peace Council by the fact that women cannot be accepted as candidates for the judicial office at all. The Supreme Court found that the President of the National Court of Appeal had left an important question unaddressed in his order as to whether the law in force in Estonia does or does not prohibit women from being accepted as a candidate for the judicial office. Given the fundamental meaning of the above question, the Supreme Court considered it expedient to provide a precise explanation to the courts. In doing so, the Supreme Court referred to the relevant provisions of the Judicial Authorities Act and the Constitution of the Republic of Estonia and took the view that “the law in force in the Republic of Estonia does not prohibit female persons who have the citizenship of the Republic of Estonia and who have graduated from the Faculty of Law of the University of Tartu and where some of these special obstacles of a personal nature provided for in § 201 of the Judicial Authorities Act do not prohibit entering the judicial service, are to be accepted as candidates for the judicial office”.⁶⁰

Although the order of the President of the National Court of Appeal was annulled by the Supreme Court who was instructed to issue a new order concerning the appointment of Auguste Susi-Tannebaum as a candidate for judicial office, it is not known whether any further decisions were taken in this case or whether Susi-Tannebaum withdrew her own application.⁶¹ In any case, she did not become Estonia’s first female judge.

The incident also attracted attention in the media. An article was published in the “Postimees” newspaper on 4 October 1924, describing the course of the process and setting out the views of the Supreme Court on the candidacy of female lawyers.⁶² Unfortunately, nothing has been said in the “Postimees” about further developments of events either.

Auguste Susi-Tannebaum discontinued her activity as an assistant of attorney in the same year, in 1924, and was removed from the list of attorneys’ assistants. Between 1924 and 1928, she lived in Pärnu, where she gave civic education classes at the Pärnu Gymnasium for Girls. Since autumn 1928, she moved to Tallinn.⁶³ The change of residence of Susi-Tannebaum was most likely related to the change in the workplace of her husband, Felix Tannebaum, as the man worked from 1923 to 1924 in Tallinn and from 1924 to 1929 in Pärnu as an official of the Bank of Estonia.⁶⁴

Court, Richard Rägo, also attended the meeting. ENA, ERA.1356.1.356, p. 8.

⁵⁹ ENA, ERA.1356.1.356, p. 9v.

⁶⁰ *Ibid.*, pp. 8-9v.

⁶¹ Unfortunately, the archive file does not contain any documents describing the future course of the case.

⁶² ‘Kas naisterahvad’, p. 3.

⁶³ ENA, ERA.1357.4.1168, p. 2.

⁶⁴ Album Academicum, p. 57.

Auguste Susi-Tannebaum was reinstated as assistant of attorney on 11 March 1931 and, between 1931 and 1932, she worked as an assistant of her older brother, an attorney, Arnold Susi.⁶⁵ However, Auguste Susi-Tannebaum did not become an attorney, she left the ranks of the assistants of attorney at her own request in 1932.⁶⁶ In 1944, she was already headed to Germany from Estonia by a new surname, Auguste Tanner⁶⁷ then to England in 1948.⁶⁸ No data have been found on Auguste Tanner's date of death. Her husband, Feliks, fought in the German army in World War II, was arrested in October 1944 and died in captivity.⁶⁹

VI. APPLICATION OF OLLI OLESK FOR JUDICIAL OFFICE IN 1929

Five years after the Susi-Tannebaum's case, in 1929, the next female lawyer wished to become a judge. Olga Desideria Olesk⁷⁰ was born in Tartu on 16 April 1906 as the daughter of the female movement and welfare activist Minni Kurs-Olesk and the daughter of Lui Olesk, a statesman and attorney. After graduating from the Gymnasium for Girls of the Estonian Association of Youth Education in 1924, she studied at the Faculty of Law of the University of Tartu, graduating on 21 December 1928.

On 2 January 1929, Olli Olesk⁷¹ asked the President of the Tartu-Võru Peace Council to appoint herself to the Peace Council as a junior candidate for judicial office. Her request was rejected by order of 17 February of the President of the Peace Council and the President of the National Court of Appeal. The order stated laconically: "Don't agree – on the basis of former views."⁷² It can be assumed that, in taking a negative view of her request, an analogous case of Auguste Susi-Tannebaum was referred to from 1924.

Olli Olesk then lodged an appeal before the Supreme Court on 21 February, stating, *inter alia*, that Eduard Sillasoo⁷³ had been accepted as a candidate for the judicial office a few days after her application had been rejected.⁷⁴

⁶⁵ Arnold Susi was born on 4 January 1897, was an attorney in Tallinn from 1924 to 1941, he was the Minister of Education in the government of Otto Tief in 1944. See Vahtre, *Eesti Advokatuuri ajalugu*, 358, *Album Academicum*, pp. 16, 29, Laar, September 1944, p. 331.

⁶⁶ *Eesti Vabariigi Vannutatud Advokaatide Nõukogu* 1932, p. 11. Also, leaving the Bar Association in 1932 may have been linked to a change in the husband's job, as Feliks Tannebaum took office from 1932 as director of the Bank of Tartu. *Album Academicum*, p. 57.

⁶⁷ Both spouses wore the surname Tanner since 1939. Auguste Tanner's travel passport: ENA, ERA.1.3.4744 (not paginated); Felix Tanner's travel passport: ENA, ERA.1.3.4745 (not paginated).

⁶⁸ Vahtre, *Eesti Advokatuuri ajalugu*, p. 358.

⁶⁹ *Album Academicum*, p. 57.

⁷⁰ Her surname at birth was Ollesk, see *Album Academicum*, p. 319.

⁷¹ In 1929, she used the name Olli Olesk in official documents.

⁷² ENA, ERA.1356.1.363, p. 15.

⁷³ Eduard Sillasoo (1899–1940) studied at the same time as Olga Olesk at the University of Tartu, both graduated from the Faculty of Law in 1928. From 1931, Sillasoo was an assistant of attorney; from 1935 to 1938, he worked as an attorney in Tartu. *Album Academicum*, p. 128.

⁷⁴ ENA, ERA.1356.1.363, p. 15.

Following an enquiry from the Supreme Court, the President of the National Court of Appeal clarified in his letter of 23 March that the Act does not contain rules requiring all applicants to be appointed as candidates for the judicial office or prohibiting the further appointment of candidates if anyone's request has been rejected. He therefore considered that the nomination of Eduard Sillasoo did not constitute an infringement of Olli Olesk's rights. In addition, the President of the National Court of Appeal stated that the appointment of Olli Olesk as a candidate had not been approved by the Prosecutor of National Court of Appeal and that the President of the Tartu-Võru Peace Council was also opposed to Olli Olesk's being appointed as a candidate. He also pointed out that the President of the National Court of Appeal had "the right to satisfy one's requests for the nomination of candidates, but to reject the other's requests".⁷⁵

On 10 May 1929, the President of the Tartu-Võru Peace Council made a short announcement that he would only support the applications for nomination of persons in respect of whom he was convinced that they could become "the best court officials". He had no such conviction about Olli Olesk, which is why he did not support her request.⁷⁶ What is interesting here is that Tõnis Kalbus, the then Minister of Justice and Internal Affairs,⁷⁷ in a letter sent to the Supreme Court on 15 May 1929, expressed the view that Olli Olesk's request should be satisfied in his opinion. He justified his position on the ground that it was not possible to state in advance whether any of the candidates was eligible for the post of judge, as this would be clear from the work and activities of the individual at the time of being a candidate.⁷⁸

This letter by the Minister of Justice and the Internal Affairs was accompanied by a position sent by the Prosecutor of the National Court of Appeal on 26 April 1929 to the Minister of Justice and the Minister of the Internal Affairs on complaint lodged by Olli Olesk,⁷⁹ in which the Prosecutor expressed his firm conviction that women were unfit to be judges. In that regard, he explained: "The profession of judge is too difficult for them. There must be a free decision-making power in this profession, free from the influence of feelings and any kind of extraneous circumstances. A woman, in my view, does not have that capacity to the extent that a man does. Perhaps my position is not worthy of the approval, there may be exceptions, but the President has also taken this view, and we

⁷⁵ Ibid., pp. 7–7v.

⁷⁶ Ibid., p. 9.

⁷⁷ Minister of Justice and Internal Affairs from 1925 to 1930, see Järveld and Pihlamägi, 80 aastat, p. 20.

⁷⁸ ENA, ERA.1356.1.363, p. 10. Tõnis Kalbus and Olli Olesk's father Lui Olesk were both members of the Constituent Assembly (Asutav Kogu), the First Riigikogu (Estonian Parliament), but one cannot presume that only this circumstance could have affected Kalbus to send a letter supporting Olli Olesk to the Supreme Court.

⁷⁹ The Supreme Court had asked the Prosecutor of the National Court of Appeal for the explanation of the considerations of the non-appointment of Olli Olesk's for judicial office through the Minister of the Justice and the Minister of the Internal Affairs, Kalbus. When transmitting the position of the Prosecutor of the National Court of Appeal to the Supreme Court, the Minister also considered it necessary to forward to the Supreme Court a personal position which was fundamentally different from that of the Prosecutor, according to which Olli Olesk should have been nominated as a candidate. ENA, ERA.1356.1.363, p. 8.

did not have any discrepancies in the general sense.” In addition, the Prosecutor stated that the appointment of women as candidates for the judicial office “would make it difficult for suitable male candidates to move on to paid positions, which in turn would reduce the will and ability for more mettlesome employees to continue to work, which in turn would have a negative impact on the composition of the courts”.⁸⁰ It is also worth noting that the position stated in the letter is that the law does not require the justification of such a decision or the opening of motives in the event of rejection of applications for candidacy. In this regard, the Prosecutor referred to the case of Susi-Tannebaum in 1924 and considered that the Supreme Court, in its order of 1 September 1924, had also supported and accepted the sufficiency of the general arguments of the President of the National Court of Appeal in the Susi-Tannebaum case and had not called for their motivation.⁸¹ Such a position by an official whose opinion depended on the appointment of a person as a candidate certainly gave a clear signal for the future. Thus, women did not have any particular prospect of applying for judge’s position – there was no point in challenging a decision which the recipient of the decision did not have to justify.

At the regulative meeting of the Supreme Court en banc on 25 May 1929, the order issued by the President of the National Court of Appeal on 17 January of the same year, by which Olli Olesk had not been accepted as a candidate for the judicial office, was annulled and the President of the National Court of Appeal was ordered to re-examine the request of Olli Olesk in substance. In that order, the Supreme Court also referred to its judgment of 1 September 1924 in the case of Susi-Tannebaum, in which it had already explained that the law in force did not prohibit women from being employed by the court. In the judgment adopted in the Olli Olesk’s case, the Supreme Court pointed out that, if such a position was already in force, the grounds relied on by the Prosecutor of the National Court of Appeal, that is to say, the lack of suitability of women for the office of judge and the aggravation of the movement of male candidates at the reception of female candidates, cannot be regarded as legitimate. In addition, the Supreme Court stated that the admission of a candidate for the judicial office is intended to enable persons who have received legal training to prepare themselves for the future court officials, and to enable them to demonstrate their abilities and eligibility for judicial activity.⁸² The Supreme Court therefore clearly supported the opinion that the essential factor for applying for judicial office must be the education of the candidate and not his or her gender.

By order of 18 October 1929, the President of the National Court of Appeal dismissed Olesk’s request with a brief explanation: “Olli Olesk’s request for the nomination as a candidate for the judicial office has been dismissed by me for non-formal reasons”.⁸³ Olli Olesk appealed the decision on 25 November,⁸⁴ but in the decision of 14 December examining her new complaint, the Supreme Court has taken the view, in a laconic and brief

⁸⁰ Ibid., pp. 11–12.

⁸¹ Ibid., p. 11.

⁸² Ibid., pp. 16–16v.

⁸³ ENA, EAA.1356.1.366, p. 4.

⁸⁴ Ibid., p. 1.

manner, that “the assessment of the eligibility of a candidate falls within the discretion of the appointing authority and that the Supreme Court has not been granted the right to make such an assessment and, for its part, to make nominations”. As a result of that reasoning, the Supreme Court dismissed Olli Olesk’s second complaint⁸⁵ and confirmed the view that the rejection of the applications of the candidate for judicial office did not require a statement of reasons for the decision.

During the examination of the complaint in 1929, Olli Olesk worked for four months as a trainee at the office of the 3rd Tartu District Judge.⁸⁶ Following the dismissal of the appeal before the Supreme Court, she decided not to pursue the position of a judge and to continue her career as an attorney, following the example of her father. By decision of the Council of Attorneys of the Republic of Estonia, she was admitted on 13 October 1930 as an assistant of attorney, six years later, on 6 April 1936 she became an attorney.⁸⁷ On 1 October of the same year, however, she went to work as an official and secretary at the Guardianship and Custodianship Court in the city of Tartu, where she worked until October 1939, after which she went to work in Tallinn as the General Secretary of the Estonian Foundation for Child Protection.⁸⁸ In 1945, Olli Olesk took up work as an inspector of kindergartens in the education department of the city of Tallinn.⁸⁹ Although it is not exactly known whether Olli Olesk’s career transition might have been linked to political change or why she withdrew from the profession of attorney, it may be assumed, by looking at her subsequent job choices, that she wished to work more in positions relating to children and their rights. In 1952, Olesk published a book “What a working mother should know”,⁹⁰ which describes health care in general and focuses specifically on health services provided to mothers. Olli Olesk died on 26 February 1988, in Tartu.⁹¹

As a result, women were not accepted as candidates for judicial office in Estonia between 1920 and 1930. At the same time, it is apparent from the archives that women were recruited as trainees in the offices and departments of Peace Councils since the 1920s without opposition. Some of the later attorneys and assistants of attorneys worked as trainees at the Peace Councils before they entered the Bar Association. Mostly initially without pay, but often after a few months of practice, women were employed by the Peace Councils as paid secretaries and clerks.

However, the issue of becoming a judge for women remained on the agenda, and the article in the “Maa Hääl” newspaper on 8 May 1933 also stated that all the female attorneys really wish that women would be allowed to become a judge. This article recognises that although it is not prohibited by law, women are in fact prevented from becoming

⁸⁵ Ibid., pp. 6–6v.

⁸⁶ Ibid., p. 4.

⁸⁷ Riigi Teataja lisa [Annex to the State Gazette], 32, 21.04.1936, p. 1722.

⁸⁸ ENA, EAA.3501.3.66, p. 7, 12.

⁸⁹ Vahtre, *Eesti Advokatuuri ajalugu*, p. 310.

⁹⁰ Olesk, *Mida peab teadma iga töötav ema?*, 7 pages. A reprint of the book was published in 1958.

⁹¹ *Album Academicum*, p. 319.

a judge.⁹² The article ends with the conclusion that women do not have access to the position of a candidate for judicial office, although it is only at this point that one might decide whether or not a woman is mature enough to be a judge.

VII. FIRST FEMALE JUDGES IN ESTONIA IN THE FIRST SOVIET YEAR

The first women were elected as judges in Estonia not before than in the first year of the Soviet occupation in 1940–1941. There were six of them in total. No doubt the political and social situation of this abundance of female judges necessitated this. During Estonia's occupation and annexation by the Soviet Union, the judicial system was quickly cleaned up, many of the judges so far were dismissed.⁹³ By the decree of 29 July 1940,⁹⁴ the existing Code of Courts was amended and supplemented. It “revoked the privileges of judges and prosecutors in comparison with other officials”⁹⁵ that is to say, the independence of the courts and justice was abolished and subjected to the control of the Communist party. The procedure for appointing and dismissing judges was also considerably simplified.⁹⁶ The positions of lay judges were changed to elected offices. The reorganisation was carried out by the Alexander Jõeäär, the People's Commissar of Court of Justice, according to the Soviet pattern.⁹⁷ In order to fill the vacancies, courses were organised for former lawyers and also for persons without legal education and people were also brought from Soviet Russia. Yet it was hard to find enough people who would have known new law⁹⁸ or law at all and were also loyal to the new regime.⁹⁹ The mass dismissal of former judges and the entry into office of new judges in a completely different manner therefore opened up new career opportunities for female lawyers as well.

By the decree of the ESSR Temporary Presidium of the Supreme Council of 31 December 1940,¹⁰⁰ appointed as the first woman to be judge at the Tallinn District Court, Leida Puusepp, who had graduated in the same year from the Faculty of Law of the University of Tartu.¹⁰¹ A few months later, by the decree of the ESSR Presidium of the Supreme

⁹² 'Igatsus kohtunikutiitli järele', p. 5.

⁹³ Peep, 'Pilguheit', p. 25. About the “demolition” of the bourgeois court order and the “rebuilding” of the new Soviet courts, see also Raudsalu, 'Nõukogude justiitssüsteemi loomine', pp. 219–220.

⁹⁴ Riigi Teataja [State Gazette], 1940, 87, 835.

⁹⁵ Raudsalu, 'Nõukogude justiitssüsteemi loomine', p. 217.

⁹⁶ Orgmäe, EKP tegevus, p. 12.

⁹⁷ More detailed information about the activities of the activities of the People's Commissariat of the ESSR Court of Justice in the period of 1940-1941, see Järvelaid and Pihlamägi, 80 aastat, pp. 78–90.

⁹⁸ Already from 16 December 1940, the Russian SFSR Criminal Code was enacted, see ENSV Teataja [The ESSR Gazette], 1940, 65, 868. On 1 January 1941 also the Civil Code, the Code of Criminal and Civil Process and the Code of Marriage, Family and Guardianship Laws, see ENSV Teataja [The ESSR Gazette], 1940, 73, 1006 and 1007; 1941, 8, 92.

⁹⁹ Karjahärm and Sirk, Kohanemine ja vastupanu, pp. 433–435.

¹⁰⁰ ENA, ERA.R-3.3.64, p. 21.

¹⁰¹ Leida Puusepp was born on 30 July 1915. After her marriage with chemist Hans Soss in 1942, she took her husband's surname. She died in 1998. *Ibid.*, p. 1.

Council of 20 March 1941,¹⁰² Miralda Tooma, became a judge of the Rakvere Circuit Court.¹⁰³ She had graduated from the Faculty of Law of the University of Tartu in 1935.¹⁰⁴ She was in the position of a circuit court judge for a short period of time. Later, she worked as secretary at the Nõmme police station and, from 1942 to 1944, Miralda Tooma was already the auditor of the bailiffs of the Court Directorium.¹⁰⁵ After the war, Miralda Tooma worked as economic manager of the “Leek” tobacco factory.

Ludmilla Vallner was appointed the judge of the Tallinn Circuit Court by the decree of the ESSR Presidium of the Supreme Council of 26 March 1941.¹⁰⁶ Ludmilla Vallner had been a member of the Leninist Communist Youth League of the Soviet Union since 1931.¹⁰⁷ She had studied law for a short time at the Leningrad Law Institute, but did not have completed her legal education.

By the decree of the ESSR Presidium of the Supreme Council of 16 April 1941,¹⁰⁸ two women were appointed judges of the Supreme Court of the ESSR: Nadežda Tihanova-Veimer¹⁰⁹ and Hilda Pöder¹¹⁰. Nadežda Tihanova-Veimer was a member of the ESSR Temporary Presidium of the Supreme Council since 1940 and was also a member of the Soviet Communist (Bolshevik) Party.¹¹¹ In 1926, she had graduated from the Russian Gymnasium of the City of Tallinn¹¹² and had worked as a textile worker between 1926 and 1940 before being elected the Chief Justice, while being on the board of the textile

¹⁰² ENA, ERA.R-3.3.110, p. 2.

¹⁰³ ENA, ERA.R-3.3.110, pp. 1–1v. Miralda Regina Tomann (also known as Toman, from 1935, Tooma) was born on 13 February 1913 in Tallinn. She studied in the E. Lender Private Humanitarian Gymnasium for Girls, graduating in 1931, see ENA, EAA.2100.1.16659, pp. 2, 3v, 4, 7. Before being elected the judge of the Rakvere Circuit Court, she had served as a clerk in the Railways Board and, from 1 January 1941, as a bailiff in the 2nd division of the Rakvere People’s Court. M. Tooma died in 2002.

¹⁰⁴ From 1931 to 1935, she studied in the Faculty of Law of the University of Tartu. ENA, EAA.2100.1.16659, pp. 11, 60.

¹⁰⁵ Album Academicum III, p. 81.

¹⁰⁶ ENA, ERA.R-3.3.115, p. 2.

¹⁰⁷ Ibid., p. 1. Ludmilla Vallner was born on 31 January 1916 in Valga as a railway worker’s daughter. She grew up in Tjumen and served as an attorney-trainee at the Collegium of Leningrad Attorneys from 1940 to 1941. During the war, she was a jurisconsult in Tjumen, in 1945, an assistant prosecutor in Harju County, in 1946, a trainee, from 1948, a member of the Estonian College of Attorneys, worked at the Tallinn I Legal Counselling Office, from 1950, the II Legal Counselling Office. In 1953, she was expelled from the College for conflict and disciplinary violations, see also Vahtr, Eesti Advokatuuri ajalugu, p. 382.

¹⁰⁸ According to other data, the 9 April 1941 Act of the ESSR Supreme Council, ENA, ERA.R-3.3.66, pp. 4, 6.

¹⁰⁹ Nadežda Tihanova-Veimer was born on 13 January 1907, according to other data, on 14 January 1907 in Narva, she was of Russian ethnic origin. She died in 1978 in Tallinn, *ibid.*, p. 2; also see Tihanova, ENA, ERAF.1.6.3812, p. 1 and Veimer, ENA, EAA.2100.1.17908, p. 1.

¹¹⁰ Hilde Valfriide Pöder (born Steinmann) was born on 23 July 1892 in Jõhvi rural municipality, Ida-Viru County, she died on 30 August 1973. She graduated in 1934 from the Tallinn College of the Private Gymnasium of the Association of Tallinn Universities, see ENA, EAA.2100.1.12225, pp. 3, 5, also Album Academicum, p. 221.

¹¹¹ See Tihanova, ENA, ERAF.1.6.3812, pp. 1–2.

¹¹² See Veimer, ENA, EAA.2100.1.17908, pp. 3–4.

workers' trade union. In her resume written on 2 November 1944, she notes that because of political propaganda, the board of the trade union was removed from office by decision of the then Minister of Internal affairs in 1936 and 1939. In July 1940, Nadežda Tihanova-Veimer was elected a member of ESSR Presidium of the Supreme Council, and in August of the same year, she was appointed the second Deputy People's Commissar of the ESSR light industry. As a judge of the ESSR Supreme Court, she was able to be a short period of time as she travelled to Russia in July 1941, but she continued to serve as a judge after the war, after having returned to Estonia.¹¹³ Although the personal file of Nadežda Tihanova-Veimer of the University of Tartu is included in the historical archive, there is no information and documentation in the file on the entry in and graduation from the university.¹¹⁴ Given that she worked as a textile worker for a long time before the war, it is likely that she had no higher legal education at the time of appointment as the Chief Justice. Probably, Nadežda Tihanova-Veimer's career could have benefited from her marriage with the communist Arnold Veimer.¹¹⁵

The second female Chief Judge, Hilda Pöder, had studied at the Faculty of Law at the University of Tartu from 1934 to 1940, immediately before being elected to this position.¹¹⁶ She was a judge of the ESSR Supreme Court in 1941 and from 1944 to 1957, from 1941 to 1944, she was in the rear of the Soviet Union.¹¹⁷

By the decree of the ESSR Presidium of the Supreme Council of 29 April 1941,¹¹⁸ Liidia Saarna was appointed the judge of the Viljandi Circuit Court.¹¹⁹ Liidia Saarna had been a member of the Leninist Communist Youth League of the Soviet Union since 1930. In 1940, she graduated from the Law Institute of Leningrad and served as the Head of Department of the Bar Association in the Russian SFSR between 1940 and 1941.¹²⁰

¹¹³ See Veimer, ENA, ERA.R-3.12.75, pp. 1, 3, 4.

¹¹⁴ On the title page of the resume of Nadežda Tihanova-Veimer, there is a note written in a hard-to-read handwriting: „Rematriculation on 13.11.42 by the decision of the Rector of the University of Tartu“, see Veimer, ENA, EAA.2100.1.17908, p. 1v.

¹¹⁵ Arnold Veimer was born on 20 June 1903 in Nehatu rural municipality. From 1924 to 1938, he was imprisoned for communist activities, but already from 1940 to 1942, he was the People's Commissar of the ESSR Light Industry, from 1942 to 1944 and from 1955 to 1968, Deputy Chairman of the ESSR Council of Ministers and from 1944 to 1951, the Chairman of the latter. From 1944 to 1955 and from 1967 to 1977, he was the Ambassador of the ESSR Supreme Council. Before the war, after being released from prison, Veimer had studied economics at the University of Tartu and also defended a doctorate in 1963. From 1951 to 1952, he was the Director of the Institute of Economics of the Estonian Academy of Sciences, from 1957 to 1965, the Chairman of the National Council of Economics. In 1967, Veimer became an academic, and from 1968 to 1973 he was the President of the ESSR Academy of Sciences. He died on 3 March 1977 in Tallinn. Album Academicum, p. 238.

¹¹⁶ See Pöder, ENA, EAA.2100.1.12225, pp. 11, 19, 30.

¹¹⁷ Album Academicum, p. 221.

¹¹⁸ ENA, ERA.R-3.3.144, p. 4.

¹¹⁹ Liidia Saarna was born on 26 February 1915 in the town of Vologda in the Vologda Oblast as the worker's daughter, in 1932, she graduated from the Pedagogical Technical School, from 1933 to 1936, she worked as an elementary school principal in the town of Vologda, see *ibid.*, pp. 1–1v.

¹²⁰ *Ibid.*, p. 1v.

Of the six women appointed as judges between 1940 and 1941, two were the judges of the ESSR Supreme Court and four were appointed to the Circuit Courts of Tallinn, Rakvere and Viljandi. Four female judges had acquired legal education, three of them at the University of Tartu and one in Leningrad. Two judges, including one Supreme Court judge, were without professional education. Three new female judges were members of the Communist Party, two of them without legal education.

In the light of the appointment of these female judges at the beginning of the 1940s, it must be noted that the existence of a higher degree of legal education was not a necessary precondition and that it was rather loyalty to the party and Soviet order which was decisive. In its initial period, the Estonian SSR needed not so much educated lawyers, but “Soviet lawyers”, whose professional skills and knowledge were subject to very great concessions.¹²¹ At the same time, the new power did not hesitate that the judicial office could also be feasible for women.

VIII. SUMMARY

In the early years of the Republic of Estonia, there was a problem of filling judicial posts and men were appointed without sufficient or no training as a lawyer. On the other hand, women who had obtained academic legal education at university and could successfully become, for example, attorneys, did not become judges or even candidates for judicial office in the inter-war period.

Auguste Susi-Tannebaum and Olli Olesk, who applied for the position of a candidate for the judicial office, had graduated from the Faculty of Law of the University of Tartu and were both members of the Estonian Bar Association at the time of the application. The applications of both Susi-Tannebaum (1924) and Olesk (1929) for judicial office were rejected. Both women challenged the respective decisions of the President of the National Court of Appeal in the Supreme Court. The Supreme Court was guided by the principle of gender equality enshrined in the Constitution and expressly expressed the view that a female candidate should not be prevented from applying for judicial office on a gender-related basis. Despite that view of the Supreme Court, the principle that candidates' suitability could be decided solely by the President of the National Court of Appeal, without being required to state the reasons for its decision, allowed women to be excluded from competition.

Thus, the cases of Susi-Tannebaum and Olesk indicate that a closed circle was formed when applying for the post of judge of female lawyers: after challenging the negative response of the President of National Court of Appeal before the Supreme Court, they received a decision on gender equality. However, the President of the National Court of Appeal formulated a further negative (and legally correct) decision on the applicant's incompatibility for “non-formal reasons”, without further explanation, or without mentioning the reasons themselves. As there was no need to motivate the decision to refuse, in

¹²¹ Järvelaid and Pihlamägi, 80 aastat, p. 91, also Sirk, ‘Haritlaskond’, p. 53.

the 1920-1930s, women were deprived of the opportunity to become a candidate for judicial office, as the decision could not be appealed to challenge its causes.

The first female judges were appointed in Estonia after the occupation of Estonia by the Soviet power. In this way, the repressions and the replacement of the former legal professionals and, as a consequence, the scarceness of suitable men who had previously filled these posts led to new employment prospects for women in the judicial system in the early 1940s. Several of these first female judges had obtained legal education before the war at the Faculty of Law of the University of Tartu or in the Law Institute of Leningrad. Nevertheless, persons without legal education, including women, were also appointed as judges, since what mattered was not so much the existence of legal education, but loyalty to the Soviet authorities.

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