

## European Rule of Law Mechanism: input from Member States – ESTONIA

January 2023

### *I. Justice System*

#### **1. Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the justice system (if applicable)**

Recommendations from the 2022 Rule of Law report:

- **Ensure that the guidelines on the conflict of interests are subject to an effective verification, monitoring and enforcement mechanism.**

Please see questions 19 and 25.

- **Continue the efforts in effective implementation of the guidelines on lobbying.**

Please see question 19.

- **Ensure consistent and effective practical implementation of the right of access to information taking into account European standards on access to official documents.**

Please see questions 33 and 42.

- **Continue advancing with the digital platform to make the legislative process even more visible and inclusive for public consultation.**

Please see question 15.

### **A. Independence**

#### **2. Appointment and selection of judges<sup>1</sup>, prosecutors and court presidents (incl. judicial review)**

No changes.

#### **3. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)**

No changes.

#### **4. Promotion of judges and prosecutors (incl. judicial review)**

No changes.

#### **5. Allocation of cases in courts**

No changes.

#### **6. Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)**

---

<sup>1</sup>The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts.

No changes.

**7. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)**

No changes.

**8. Remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year), transparency on the system and access to the information**

No changes.

**9. Independence/autonomy of the prosecution service**

No changes.

**10. Independence of the Bar (chamber/association of lawyers) and of lawyers**

No changes.

**11. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary**

No changes.

**B. Quality of justice<sup>2</sup>**

**12. Accessibility of courts (e.g. court/legal fees, legal aid, language)**

No changes.

**13. Resources of the judiciary (human/financial/material<sup>3</sup>)**

The budget for 2023 is 58 027 204 euros. This is 10 062 448 euros more compared to 2022 when it was 47 964 756 euros. The salaries in this field will increase in 2023 by about 15%.

**14. Training of justice professionals (including judges, prosecutors, lawyers, court staff)**

No changes.

**15. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)<sup>4</sup>**

The Document Delivery Portal (DDP) has been operational since October 2022. It is a system to which documents that must be served or delivered are transferred from other interfaced systems. As part of a pilot project, two systems, the public e-file and business register, were interfaced into the DDP. The DDP gathers all documents from interfaced systems and blocks the use of services if served documents have not been accepted. The system is already being used widely. Since October, 167 000 documents have been sent to DDP and 64% of them (107 135) have been delivered with an average delivery time of 1,5 days (as of January 2023).

---

<sup>2</sup> Under this topic, Member States are not required to give statistical information but should provide input on the type of information outlined under section 2.

<sup>3</sup>Material resources refer e.g. to court buildings and other facilities.

<sup>4</sup> Factual information presented in Commission Staff Working Document of 2 December 2020, SWD(2020) 540 final, accompanying the Communication on Digitalisation of justice in the European Union, COM(2020) 710 final and Figures 41 to 49 of the 2022 EU Justice Scoreboard, does not need to be repeated.

## **II. Anti-corruption framework**

As of 1.10.2022 the data in the e-Business Register is freely available to everybody and no fees are required for viewing documents and data.

### **16. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)**

The regular court users survey that is conducted once every four years was carried out at the end of 2021. There were 137 respondents from professional parties to proceedings and 158 respondents from parties to proceedings whose rights were affected by the decision (e.g. victims, other interested parties, etc).

According to the study, professional parties to e proceedings are satisfied with the work of judges at a high level. 97% of the respondents consider the Estonian judicial system to be trustworthy. 92% of the target group are satisfied with the work of the courts. It is also important to note that 90% of the respondents indicated that court trials have taken place at the agreed times.

The target group considers the greatest problem related to the Estonian courts to be the speed of court proceedings – here 44% of the target group are dissatisfied, despite good indicators in this area (see below point 18).

58% of parties (whose rights were affected by the court decision) to proceedings consider the Estonian judicial system to be trustworthy. 57% of the target group are satisfied with the work of the courts.

### **17. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.**

No changes.

## **C. Efficiency of the justice system<sup>5</sup>**

### **18. Length of proceedings**

According to the procedural statistics of 2022, civil cases were resolved in county courts on average in 102 days, criminal cases were resolved on average in 245 days in general criminal proceedings, 33 days in simplified proceedings and 44 days in misdemeanour cases. Administrative cases were resolved in the first instance courts on average in 149 days. The average processing time for appeals was 196 days in civil cases, 81 days in criminal cases and 257 days in administrative cases.

#### **Other – please specify**

##### **A) Legislative developments**

- **Legislative draft currently discussed in Parliament**

[Draft legislation on the public disclosure of judicial proceedings](#) passed the first reading in the *Riigikogu*, the Estonian parliament. The draft legislation aims to increase the availability of information on judicial proceedings and judicial practice to the public. The draft legislation will

---

<sup>5</sup> Under this topic, Member States are not required to give statistical information but should provide input on the type of information outlined under section 2.

make judicial decisions available in the electronic State Gazette immediately after pronouncement (currently: after entry into force) in all types of proceedings. The draft legislation allows non-participants in a criminal case to submit a request to examine the criminal file after the end of the criminal proceedings. The examination of court files in criminal proceedings has not yet been regulated. A court may on its own initiative broadcast any court hearing online in the interests of the administration of justice, but thereat would need to consider all the relevant circumstances that might somehow restrict the decision to broadcast.

[Draft legislation on amendments to the Courts Act](#) passed the second reading in the Riigikogu. The draft legislation will increase the specialisation of judges, improve judges' social guarantees and modernise the management of county courts. All registration cases, including compulsory dissolution cases, will be transferred to the Tartu County Court to allow for the greater specialisation of judges and harmonisation of judicial practice. For the development of supervision of guardianship, a department of guardianship supervision will be established in the Pärnu County Court. According to the draft legislation, county courts will be divided into civil departments and criminal departments. The departments will be able to specialise in a narrower field, such as family matters, insolvency proceedings, etc. The number of courthouses and their locations will stay the same. The appointment of law clerks and assistant judges will be unified, and movement within the court system will be facilitated. The chief judge of the County Court will appoint assistant judges. A judge who has been temporarily away from service can return to his/her position. This will enable the judge to work in another position in the civil service or as a faculty member at a university. Currently, returning to the office of judge is not guaranteed in such case. The draft legislation also stipulates that a judge who has been transferred to another court of the same instance or a higher court will continue to review cases of the county, administrative or district court in his/her ongoing proceedings that have not been redistributed to other judges for the purpose of ensuring a reasonable time for proceedings.

[Draft legislation on court proceedings during a state of emergency or state of war](#) is currently being debated in the Riigikogu. The administration of justice may be complicated during a state of emergency. The draft legislation aims to lay down differences in administrative and civil court proceedings when a state of emergency or a state of war has been declared throughout the country. Administrative and civil courts would be authorised to stay proceedings if conduct of the proceedings is not possible or is significantly complicated due to exceptional circumstances. The draft legislation provides that the administrative and civil courts may process cases in a simplified manner during a state of emergency. The chief judge of a court would be authorised to give judges instructions for the priority processing of cases, change the division of tasks plan and the internal rules of the court in the interests of the administration of justice during a state of emergency. If adopted, the Supreme Court *en banc* would have the power to send a judge temporarily to another same instance court or a lower court without their consent during a state of emergency. The draft legislation would enable court hearings to be held during non-working hours and would abolish the obligation to involve lay judges in the administration of justice during a state of emergency.

[In 2022, a regulation concerning paper free court proceedings in civil and administrative cases](#) passed the second reading in the Riigikogu and is heading to third reading in 2023. The regulation is expected to enter into force on 01.04.2023. It provides a clear legal meaning to the digital court file in order to facilitate the digitisation of court proceedings and the transition to paperless court proceedings. The form of documents has changed in practice, and so it is not reasonable to print out both electronic documents created by the court itself and those sent to the court, as well as data already stored in the information system, for the paper file. Digital court proceedings have been partially implemented in courts since March 2017. About 27% of civil and administrative cases were processed without a paper file in 2019 and about 38% of

all cases registered in the court information system in 2020. Court cases are processed digitally in the court information system and the digital file system. For more than three years, the new system has been tested in the courts with the aim of finding out what is needed for the successful implementation of digital court proceedings, and testing the performance and suitability of the digital file for the digital processing of cases.

**C) Developments related to the judiciary/independent authorities**  
**- Important decisions/opinions from independent bodies/authorities**

The Council for Administration of Courts discussed the courts' activities during times of crisis at its 121st session held on 8 September–9 September 2022. The Council adopted recommendations for organisation of the work of courts during a crisis affecting the administration of justice (including war or a state of emergency).

The Council for Administration of Courts considers it important that Estonian courts ensure the proper functioning of the administration of justice during any crisis to the extent that is possible given the circumstances. For this purpose, the Council approved a [list of priority court proceedings](#). Efforts must be made to ensure that these cases are processed for as long as possible given the situation.

Also, if possible, more resource-saving solutions than usual are to be applied in proceedings. For example, conducting hearings in the procedure centres (units that are set up locally during crises in order to ensure fast proceedings), preferring video hearings, using documents in digital form and instead of creating a record of proceedings using audio recordings, etc.

## **II. Anti-corruption framework**

**Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.**

**19. Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the anti-corruption framework (if applicable)**

a) To ensure proper monitoring and enforcement of the [Guidelines for Ministers and their Advisors to Avoid Conflicts of Interest](#) and the [Good Practice in Communicating with Lobbyists](#) (the codes; the guidelines) it has been established in the anti-corruption network (containing the contact persons from all ministries and other stakeholders) that ministers and their advisers are consulted by corruption contact persons in ad hoc matters related to conflicts of interest, gifts and other related topics. The actual importance and implementation of the guidelines became evident lately with the appointment of the current Government in the summer of 2022. The Minister of Health and Labour was accused of breaching the Good Practice in Communicating with Lobbyists due to the reason that he had been a lobbyist in his previous position as the head of the Estonian Trade Union Confederation. The minister first consulted the anticorruption contact person of the Ministry of Social Affairs (his home ministry). The Ministry of Justice was also consulted, and ultimately it was advised that he could continue as a minister but could not participate in decisions related to his former employer. More information is available [here](#).

In addition, the anti-corruption network agreed on 02.11.22 on more pro-active procedures for enforcement of the Guidelines:

a. First, the State Chancellery will notify incoming ministers of the codes as part of the so-called induction package and will draw the ministers' attention to the obligations arising from them (e.g. disclosure of lobby meetings, the requirement to screen the ethical background of political advisers, etc). The required amendments to § 27<sup>1</sup> of the [Rules of Procedure of the Government of the Republic](#) have been drafted and have passed the first consultation round with the ministries. The amendments provide for clear rules regarding responsibility in order to guide the ministers and their advisers when implementing the codes will be stipulated. According to the wording of the draft:

*§ 27<sup>1</sup>. Advising a member of the Government of the Republic on corruption prevention issues*

*Ministers shall be advised by the Ministries and the Prime Minister shall be advised by the State Chancellery on matters relating to reconciliation of the duties of a member of the Government of the Republic, restrictions related to leaving office, as well as requirements arising from the Anti-corruption Act and instructions given to avoid conflicts of interest, and good practice in communication with lobbyists.*

b. In the second stage, the personnel officer of the ministry/state office is obliged to provide information on the responsibilities in more detail and will recommend and aid in completion of the e-training program on corruption and conflict of interest. It is possible to complete the training either only by watching videos or more thoroughly in modules, which also have self-check tests. The minister and the political advisers will give feedback to the HR employee about the completion of the training. On 19.01.23 the Ministry of Justice will have a meeting with the Round Table of Personnel Managers in order to agree on the procedures and details of the obligations. We will provide any relevant updates after the meeting.

b) Regarding the disclosure of meetings with lobbyists, any official who is required to disclose meetings must ensure that his meetings are disclosed. Extensive guidance and support have been provided by the Ministry of Justice to the anti-corruption network, in addition there are Q&A sessions. In case of questions, officials regularly ask for help from the corruption prevention contact person of their ministry. In practice, meetings are well disclosed and regularly updated in the central dashboards (unofficially called the lobby register by many). There information on the names of lobbyists, public officials, topic of the meetings and dates of the meetings can be tracked.

The Ministry of Justice and Transparency Estonia analysed the data on disclosed lobbying meetings and launched the ranking of the ten best-performers in December, 2022. The best performers were recognised with the title of transparent policy maker. The criteria for assessing the quality of the information and making the ranking is described [here](#) in Estonian.

#### ***A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)***

***20. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measures taken to effectively and timely cooperate with OLAF and EPPO.***

The Prosecutor's Office has received additional funds in order to investigate white collar crimes, altogether 900 000 € to their budget. In 2022 they were allocated 600 000 € for

investigating latent crimes and in 2023 an additional 300 000 € to hire special consultants (e.g. analysts, bookkeeping specialists etc).

Estonia will recruit additional 1-2 EPPO delegate prosecutors in 2023. Altogether there are approximately 40 prosecutors responsible for prosecuting white-collar crimes (corruption, economic crimes and cybercrime) in the prosecutor's office.

Ministry of Justice, Ministry of Interior, Police and Border Guard, Internal Security Service, Tax and Customs Board will plan a study trip to EPPO in the 1st half of 2023, the aim of which is to increase the capacity of the authorities to make policy and of policy making and investigating white-collar crimes of the authorities.

**21. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.**

The positions of the director general of the Police and Border Guard Board and of the Estonian Internal security Service have a five-year term (clause 44 (2) 1) of the [Police and Border Guard Act \(PBGA\)](#). As of 01.07.2022, the positions of deputy director general of the Police and Boarder Guard Board (PBGB) and deputy director general of the Estonian Internal Security Service also have a five-year term (clause 44 (2) 1<sup>1</sup> of the PBGA).

**22. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.**

The implemented actions of 2021 can be tracked [here](#).) For 2022, the list is yet to come.

**B. Prevention**

**23. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.**

A number of additional agencies (municipalities, institutes, state departments) made the [e-learning](#) course on corruption and conflict of interest mandatory for their employees. This means that there is more and more awareness on the rules of COI in the Estonian public sector.

**24. General transparency of public decision-making, including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)**

Owing to the changes (2022) in the register of declarations of interests, it is now easier to track the names of officials who have/have not submitted a declaration.

As for lobbying, please see 19 b).

**25. Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)**

Since the last report, Estonia has strengthened the post-service rules of Members of Government. According to the changes to the [Government of the Republic Act \(GRA\)](#) adopted in 01.08.2022 (enforce 19.08.2022):

§ 12<sup>1</sup>. Limitation of activities of a member of the Government of the Republic after the end of the mandate

*A member of the Government of the Republic may not act as a member of the management or control body in a private legal entity that falls under the jurisdiction of the ministry headed by him during the six months following the end of his mandate, if the minister has made*

*decisions with significant impact on the activities of this legal entity during his term of office, or if the legal entity has contractual relations with the ministry headed by him. The restriction does not apply to a non-profit organization.*

In summer 2022, the Ministry of Justice prepared a legislative intent for the draft Anti-Corruption Act and it went through a consultation round. Based on the feedback of the ministries and other stakeholders, the Ministry of Justice prepared a draft law which will probably pass the consultation round during the first half of 2023 and be approved by the Government for submission to parliament. The draft will include some precisions and clarify the text of the law. For example, the procedure for notification of exceptions to procedural restrictions would be changed and the disclosure of non-application of restrictions would be specified. Declaration of investments in virtual currencies and crowdfunding would also be made mandatory.

**26. Measures in place to ensure whistleblower protection and encourage reporting of corruption.**

Since January, 2022, when the Parliament finalized the first [reading of the draft](#) of the Whistleblower Protection Act, no further amendments have been introduced. Although Estonia has not yet adopted the Whistleblower Protection Act and the draft is still pending in parliament, various steps to increase awareness of whistleblower protection within public authorities have been taken. For example, the Ministry of Justice has developed an internal whistleblower hotline, the Police and Border Guard have created a confidential e-mail address for reporting, and it is also possible to report directly to the designated person.

**27. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other), and, where applicable, list measures to prevent and address corruption committed by organised crime groups (e.g. to infiltrate the public sector)**

The primary sectors with a high corruption risk are:

- 1) the health care sector;
- 2) local government;
- 3) political party financing.

There are measures foreseen in [the anti-corruption action plan 2025](#). With regard to health care, in 2023 the Ministry of Justice intends to map challenges relating to healthcare-specific corruption prevention and gain through specific studies in-depth knowledge about corruption in procurement related to medical equipment. We aim to conduct a comparative study between Estonia and other EU members on procurement management in hospitals, comparing procurement prices and procurement systems and to map the scope of contractual partners' subsidies (kick-backs) to hospitals and their employees (e.g. through travel subsidies, etc).

In order to prevent organized groups from infiltrating into the economy and the public sector, the main measure is supporting transparent public administration and business culture.

**28. Any other relevant measures to prevent corruption in public and private sector**

The Ministry of Justice together with universities prepared and made available [e-learning materials](#) on business ethics, corruption and economic crimes. The purpose of the materials is to increase the knowledge of business students about business corruption and economic crimes. The course is available also in the Moodle application, and is widely used by high schools and universities in Estonia.



### **C. Repressive measures**

#### **29. Criminalisation, including the level of sanctions available by law, of corruption and related offences, including foreign bribery.**

No changes: please see the [Penal Code](#).

#### **30. Data on investigation and application of sanctions for corruption offences<sup>6</sup>, including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.**

In 2022 there were the following statistics on criminal cases relating to corruption crimes (§ 294-300<sup>1</sup> of [the Penal Code](#)):

Corruption cases under pre-court investigation (31.12.2022)	42
Cases sent to court	6
Cases terminated on expediency	5

#### **31. Potential obstacles to investigation and prosecution as well as to the effectiveness of criminal sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)**

No changes.

#### **32. Information on effectiveness of non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders.**

No changes.

### **III. Media freedom and pluralism**

#### **33. Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding media freedom and pluralism (if applicable)**

In 2022, the *Arenguseire Keskus* (Foresight Centre, an independent think tank at the Estonian Parliament) within the framework of their research stream “The Future of Data Freedom” published a report [“Trends in access to public sector information”](#). Among other aspects, the report also indicates the possible obstacles regarding the classification of information. The report provides input for the future analysis of what kind of solutions would be necessary and whether there is a need for amendments to the [Public Information Act](#).

#### **A. Media authorities and bodies<sup>10</sup>**

#### **34. Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies**

---

<sup>6</sup> Please include, if available the number of (data since 2019): indictments; first instance convictions, first instance acquittals; final convictions; final acquittals; other outcomes (final) (i.e. excluding convictions and acquittals); cases adjudicated (final); imprisonment / custodial sentences through final convictions; suspended custodial sentences through final convictions; pending cases at the end of the reference year. <sup>10</sup> Cf. Article 30 of Directive 2018/1808.

The amended [Media Services Act](#) transposing Directive (EU) 2018/1808 into Estonian law entered into force in the first quarter of 2022. The Estonian national media regulatory, as the state supervisory authority for compliance with the requirements set by law on the content of media services, is fully competent and obliged to supervise the content of media services in accordance with the additional obligations imposed by Directive (EU) 2018/1808.

**35. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies**

No changes.

**36. Existence and functions of media councils or other self-regulatory bodies**

No changes.

**B. Safeguards against government or political interference and transparency and concentration of media ownership**

**37. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)**

No changes.

**38. Safeguards against state / political interference, in particular:**

- **safeguards to ensure editorial independence of media (private and public)**
- **specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions**
- **information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licences, company operation, capital entry requirements, concentration, and corporate governance**

No changes.

**39. Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners as well as any rules regulating the matter**

No changes.

**C. Framework for journalists' protection, transparency and access to documents**

**40. Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications**

No changes.

**41. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists**

No changes.

**42. Access to information and public documents (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)**

In the e-business register portal, public data on all legal entities registered in Estonia can be viewed in the same way as before, but it is free of charge from October 1, 2022. Anyone can view data in the portal to find information about companies, non-profit organizations, foundations, and state and local government institutions.

Transparency authorities where they exist: according to § 45 of the [Public Information Act \(PIA\)](#) the Data Protection Inspectorate exercises state and administrative supervision over holders of information *inter alia* regarding compliance with requests for information and the disclosure of information and protection of information intended for internal use. By April 1 each year, the Data Protection Inspectorate must submit a report on compliance during the preceding year with the Public Information Act to the Constitutional Committee of the Riigikogu (Estonian Parliament) and to the Legal Chancellor (§ 54 of PIA).

Possible obstacles related to the classification of information: In October 2022, the *Arenguseire Keskus* (Foresight Centre, an independent think tank at the Estonian Parliament) within the framework of their research stream “The Future of Data Freedom” published a report “Trends in access to public sector information”. The report also gives an overview of respondents’ views on possible obstacles to the classification of information and as such provides input for the future analysis of and if needed, possible proposals for amendments to Public Information Act.

**43. *Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits***

A) There is no newly adopted legislation. However, we refer to the regulation applicable to manifestly unfounded cases, as this is a new issue in the report:

*Measures taken to safeguard manifestly unfounded lawsuits* – According to § 371(2) of the [Code of Civil Procedure](#) (CCP), the court may reject a statement of claim if:

1) based on the factual circumstances offered as the cause of the claim, violation of the claimant's rights is impossible, on presumption that the facts as asserted by the claimant are correct;

2) the court claim has not been filed for protecting a right or interest of the claimant that is protected by law, or for a purpose to which the State should afford legal protection, or if the purpose sought by the claimant cannot be achieved by the claim.

In this phase, the court proceeding has not yet started, and the defendant is generally not involved. As a legal consequence, it is considered that the lawsuit has not been pending.

If, however, the circumstances become apparent after deciding on acceptance of the court claim (the proceeding is pending), the court may dismiss the court claim (CCP § 423(2)). In such a case, it is also considered that the lawsuit has not been pending.

B) Negotiations on the proposal of the anti-SLAPP directive are ongoing in the Council of the European Union. There are currently no other legal political developments.

C) As far as we are aware, the Estonian courts have not made any decisions in 2022 in which the court has found that the plaintiff has filed a SLAPP claim against the defendant.

**IV. *Other institutional issues related to checks and balances***

**44. *Please provide information on measures taken to follow-up on the recommendations received in the 2022 Report regarding the system of checks and balances (if applicable)***

Estonia has continued to develop the new co-creation workspace, and the progress of all stages in on schedule. Drafting of the first actual draft Bill using the system is currently being piloted by the ministries to gain feedback and insight from users of the process.

#### **A. The process for preparing and enacting laws**

##### **45. Framework, policy and use of impact assessments and evidence-based policy-making, stakeholders<sup>7</sup>/public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process**

No changes.

##### **46. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)**

No changes.

##### **47. Regime for constitutional review of laws**

No changes.

##### **48. COVID-19: provide update on significant developments with regard to emergency regimes/measures in the context of the COVID-19 pandemic**

The general orders establishing restrictions due to the COVID-19 pandemic were declared invalid by the end of the first half of the year, after which no further restrictions have been imposed.

##### **- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic**

The Constitutional Review Chamber of the Supreme Court of Estonia reviewed the constitutionality of the [Communicable Diseases Prevention and Control Act \(CDPCA\)](#). Clauses 27 (1) 2) and 3) and subsection 27(3) as well as clauses 28 (2) 1) and 3) and subsections 28(5)-(6) and (8) of the CDPCA were reviewed insofar as they are allowed for the establishment of:

- 1) the requirement for a corona certificate and
- 2) the obligation of the person responsible for the control activity to verify the validity and authenticity of the certificate as a prerequisite for the person's activity and
- 3) the condition for the release from quarantine of close contacts who have had COVID-19 where no more than 180 days have passed since performing an antibody test confirming the diagnosis or the date of confirmation of the diagnosis.

The Supreme Court found that the aforementioned provisions of the Communicable Diseases Prevention and Control Act are not unconstitutional (judgment of the Constitutional Review Chamber of the Supreme Court No. 5-22-4 of 31 October 2022).

Administrative courts resolved 64 cases regarding restrictions imposed to address the COVID-19 pandemic, of which the action was completely granted in 1 case, partially granted in 2 cases and dismissed in 28 cases. For various reasons, in 33 cases the actions were not determined in substance.

---

<sup>7</sup> This includes also the consultation of social partners.

- **oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic**

No changes.

- **processes related to lessons learned/crisis preparedness in terms of the functioning of checks and balances**

A broader process is underway in Estonia to update the regulation of preparedness for various crises, including such crises as the COVID-19 pandemic.

### **B. Independent authorities**

- 49. Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions<sup>8</sup>**

No changes.

- 50. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.**

In 2022, the Chancellor of Justice made 8 proposals to bring legislation into conformity with the Constitution. She also issued a total of 14 memorandums to the Riigikogu, ministries, and local governments on the need to initiate legislation. Some of the issues raised have been resolved, but some are still being worked on. The Chancellor of Justice also submitted 2 requests to the Supreme Court to declare legislation or a norm unconstitutional. The requests concerned proceedings that had started in previous years, and they are currently pending in the Supreme Court.

Additionally, the Chancellor of Justice made 80 recommendations to the state and local authorities to adhere to the principles of legality and good administration. In general, these recommendations are taken into consideration and followed. However, recommendations requiring significant resources have needed more time for implementation. Some issues have been resolved in the course of the proceedings. In this case, the proceedings have been terminated without making any formal proposal or recommendation.

### **C. Accessibility and judicial review of administrative decisions**

- 51. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)**

No changes.

- 52. Judicial review of administrative decisions:**

**- short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review).**

No changes.

---

<sup>8</sup> Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>

**53. Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation**

No changes.

**D. The enabling framework for civil society**

**54. Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)**

Based on the Estonian Civil Society Development Concept, the Government promotes civil society through the Cohesive Estonia Development Plan 2021-2030 adopted on 18 November 2021. The development plan is executed by three ministries – the Ministry of the Interior, the Ministry of Culture and the Ministry of Foreign Affairs. The plan foresees a steering committee consisting of different stakeholders, including civil society representatives. The civil society representatives were chosen as a result of a public competition.

Detailed information on the participants, stakeholders, process, meetings, outcomes and schedule of drafting the development concept is available to the public on the [ministry's website](#).

The work of CSOs is also supported through the National Foundation of Civil Society (NFCS), which is a state financed civil society fund, development and support centre that focuses on helping CSOs build their capacity to function purposefully and effectively. While the NFCS is funded by the government, it functions independently under the guidance of its board, of which the majority of the seven members are representatives of CSOs. The NFCS supports over 100 projects and initiatives annually, ranging from regional to international cooperation. The NFCS also has a nation-wide outreach involving all stakeholders. In cooperation with county governments and development centres, NFCS offers expertise and consultations on a variety of topics, including on how to start an NGO, how to apply for funding and how to become a sustainable organization.

The Network of County Development Centres (NCDC) operates in each of Estonia's 15 counties. Each county development centre has a dedicated consultant for CSOs. The NCDC's CSO consultants counsel and help non-governmental organisations to establish and develop their organisations, depending on the organisation's needs. The NCDC employs 18 CSO consultants throughout Estonia. The provision of the services is supported by the National Foundation of Civil Society. Consultations take place in the following areas: 1) establishment and development of a non-governmental organisation; 2) writing, including amending of the Articles of Association of a non-governmental organisation; 3) growing operational capacity and inspiring leaders; 4) operating subsidies for non-governmental organisations; and 5) organisation management.

In addition, training workshops for new and established CSO's are also offered by the NDCD in each county to develop their members' and leaders' knowledge and skills for sustainable operation. Trainings are also provided in both Estonian and Russian. All the relevant information is published on the [consulting portal for CSOs](#).

Civil society organisations (CSOs) are not regulated by any specific legislation in Estonia other than the [Non-profit Associations Act](#) and [Foundations Act](#). In order to found a non-profit organisation in Estonia, it is necessary to: 1) conclude a memorandum of association which approves the articles of association and establishes the members of the management board (both documents must be presented in the Estonian language or as parallel texts); 2) submit

an application for the registration of the organisation in the [business register](#). A step-by-step guide for establishing a non-profit organisation can be accessed on the [consulting portal for CSOs](#). The dissolution process consists of several stages and takes over two months to complete. A step-by-step guide for dissolving a non-profit organisation can be accessed on the [consulting portal for CSOs](#). CSOs can also book a consultation session with their county's CSO consultant to receive guidance for both processes.

The obligations of members of the management board are established by the [Non-profit Associations Act](#) and the [General Part of the Civil Code Act](#). The more general of these are the obligations of due diligence and loyalty, the more specific are the management and representation of the organisation, organising accounting, and keeping track of the number of members. As members of the management board are solidarily liable for breaches of their obligations, it is necessary that all of them are equally involved and active. The minimum requirement of the state is electronic submission of the [annual report](#) six months after the end of the year at latest (financial report and activity report are made public in the business register). For this purpose, the association must have an accountant and it must comply with the [Accounting Act](#). To simplify the fulfilment of these obligations, the state offers the affordable accounting software *e-financials*; additionally, in Estonia the entire accounting and documentation can be electronic only. The annual report must be signed by at least one member of the management board, thus at least one must have an Estonian identification document and the ability to provide digital signatures.

**55. Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.**

The rules and practices having an impact on the effective operation and safety of CSO's in Estonia do not differ in any way from measures that are employed to ensure the effective operation and safety of other, non-CSO organisations. This has not been an area of special concern in Estonia so far. However, we did request input from the Police and Border Guard Board and the Estonian Internal Security Service on this matter.

In the opinion of the Police and Border Guard Board, it is not a problem that requires special attention or actions by the police in the Estonian context. If necessary, the police intervene in the usual way and react according to the content of the report, including what is happening on the Internet with the help of online police officers. The police do not deal with defamation cases, and in this regard the victims can go directly to the civil court. With certain organisations that may be more at risk (e.g. those dealing with the protection of minority groups - Estonian LGBT Association, etc.), the police have regularly met proactively and advised them.

The Estonian Internal Security Service prevents acts of extremism and radicalism (ideological, political, religious extremism) and related violence, including ideology. The Estonian Internal Security Service has jurisdiction over criminal proceedings and investigative authority in relation to such offences set forth in the Penal Code.

**56. Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)**

CSOs are financially supported through the National Foundation of Civil Society (NFCS), which is a state financed civil society fund, development and support centre that focuses on helping

CSOs build their capacity to function purposefully and effectively. While the NFCS is funded by the government, it functions independently under the guidance of its board, of which the majority of the seven members are representatives of CSOs. The NFCS supports over 100 projects and initiatives annually, ranging from regional to international cooperation. CSOs can also apply for funding through numerous other organisations, such as [the Good Deed Foundation](#). [Consulting portal for CSOs](#), a roadmap for CSOs, helps CSOs navigate through the complex world of funding opportunities.

[Guidelines for the financing of CSOs](#) were developed in 2013 under the leadership of the Ministry of the Interior. The guidelines created the prerequisites for harmonising domestic financing practices and principles concerning CSOs at both the state and local government levels. In 2022, it was decided that the guidelines will be updated, and the process will begin in 2023.

Strategic partnership means that the ministry or its subsidiary provides stable and long-term funding to CSOs (usually umbrella organisations) that contribute to planning the development of the relevant field and achieving goals by implementing agreed activities. It creates a clear and specific channel for the institution to communicate with associations, to transmit information, to receive feedback and to conduct consultations. Strategic partners are selected through public procurement.

Estonia has a list of CSOs that benefit from an income tax discount. To be eligible to apply for the discount, the association must be a charitable organisation operating in the public interest (the activity of the association must meet the requirements of [§ 11 of the Income Tax Act](#)). An association that has not been operating for at least six months and has not submitted an annual report (or an interim report to the Tax and Customs Board) for that period is not eligible to be included in the list. Associations on the list also incur additional reporting obligations compared to associations that are not on the list.

The Estonian tax system favours the making of donations and gifts to charitable organisations operating in the public interest, which are included in the list of associations with income tax benefits by the Tax and Customs Board. This means that only donations made to organizations on this list are tax-free for legal entities; and amounts (in the case of a material donation, its market value or the price difference in the case of discounted sales) can also be deducted by a private person from their taxable income after other deductions (maintenance, training costs, loan interest, etc.) - a total of €1,200 per year for a private person from 2016 and no more than 50% of taxable income.

***57. Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)***

Before the new development plan was adopted, the Ministry of the Interior, responsible for civil society policy in Estonia, chose its new strategic partners in the field of civil society through a public call. As of April 2021, four strategic partners help to achieve the civil society development goals agreed in the Cohesive Estonia Development Plan 2021-2030: Network of Estonian Non-profit Organisations in cooperation with County Development Centres, Social Enterprise Estonia and Social Innovation Lab. In December 2022, the ministry announced a public call to choose a fifth strategic partner that will focus on the implementation of the community-based approach. The fifth strategic partner will be selected in early 2023.

A committee discussing questions regarding cooperation between civil society and the government was established by the government upon adoption of the EKAK in 2002. Half on



the members represent civil society, and the other half are state representatives. The platform allows for issues regarding the effective operation of civil society organisations and rights defenders to be raised. The activities of the committee are public, meaning every meeting's minutes are made publicly available on the ministry's website.

The Estonian People's Assembly took place from 2013 to 2014 and was based in a social movement seeking greater transparency of government. In response, the then President Toomas Hendrik Ilves initiated a process which brought together representatives of political parties, social interest groups and non-profit sector representatives, political scientists and other opinion leaders. This led to two initiatives – an online collection of proposals from citizens and a public day of discussions organised by the Estonian Cooperation Assembly, the Praxis Centre for Policy Studies, the Network of Estonian Non-profit Organisations NENO, the Open Estonia Foundation and the e-Governance Academy, together with representatives of the four parliamentary parties, the Office of the President of the Republic of Estonia as well as several IT and communication professionals.

One of the outcomes of this process was the launch of the Citizen Initiative Portal [rahvaalgatus.ee](http://rahvaalgatus.ee), which allows anyone 16 years of age or older to initiate a discussion or compile and send a collective proposal with at least 1000 digital signatures to the parliament of Estonia, and also to follow how the proposal is dealt with online. As of January 2023, there have been a total of 474 discussions and 327 initiatives launched through the portal of which 156 have been processed by the Riigikogu, Estonia's parliament.

Information on the functioning of civil society in Estonia is also available in a [2018 short summary form on the status of NGOs](#), and also in the Report of the Conference of NGOs of the Council of Europe on Civil participation in the decision-making process.

On 10. February 2022, Estonian Parliament discussed the implementation of the concept of the development of Estonian civil society as a national issue of great importance at the initiative of the parliament's Constitutional Commission. Former Estonian Minister of the Interior Kristian Jaani, head of the Union of Non-Governmental Organizations Kai Klandorf, entrepreneur and co-founder of the technology company Bolt Martin Villig and chairman of the Constitutional Commission Toomas Kivimägi each made a presentation at the session. The presentations were followed by questions for the speakers and speeches by political groups and members of the Estonian Parliament.

As a commitment of "[Estonian Open Government Partnership Action Plan for 2022–2024](#)" an expert group on open government was created in autumn 2022. Their aim is to create an open government roadmap that systematically maps the necessary steps to implement co-creative policy-making in the public sector, to implement open government principles at all levels, and assess the potential impact of these developments. Results of the expert group will be introduced in February 2023.

### ***E. Initiatives to foster a rule of law culture***

#### ***58. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, etc.)***

Publication of the Commission's 2022 Rule of Law Report was reported in the media and was also the subject of an Editorial titled "The Rule of Law is Important" (in Estonian [Õigusriik on oluline](#)) in one of Estonia's largest daily newspapers *Postimees*. The Editorial drew attention to Estonia's comparatively rather positive report but also examined the four recommendations made by the Commission. The Editorial expressed the opinion that the rule of law is important,

and that we should not simply look past issues when they arise somewhere in the Union in the name of cohesion. Taking stock of these issues once a year is the least that can be done, and Estonia should strive to serve as an example in this regard.

In 2022, the Faculty of Law of the University of Tartu in collaboration with the Ministry of Justice published a book in Estonian titled “Restoration of a State Based on the Rule of Law. Reforms of Estonian Law and Institutions 1992-2022” (in Estonian: *Õigusriigi taastamine. Eesti seaduste ja institutsioonide reformid 1992-2002*). The book examines the process of restoring Estonia as a state based on the rule of law during the first decade after restoration of Estonia’s de facto independence in 1991, when democratic institutions were reinstated or formed and a renewed Constitution and modern public, private and penal law legislation was passed to replace the system imposed during the Soviet occupation. The book reflects on these processes with many of the key actors and assesses the success of the reforms.

***Other – please specify***