

European Rule of Law Mechanism:

Second set of additional questions to the country visit – ESTONIA

01 April 2022

- 1) During the country visit, it was mentioned that the Anti-Corruption Network was extended in 2021 to additional stakeholders. Could you please elaborate when and through what legislation this was done? Could you please provide a list of stakeholders that have been added to the Network? Could you also indicate how many times did the Network meet in 2021?**

The network functions without legislation, as it has been established by the anti-corruption strategy and the action plan approved by the Government. The fact that laws are not necessary for its functioning is indicative of the high level of motivation of those belonging to the network. In 2021, the network met six times. There are 29 members of the network, which are: all ministries, the Estonian Chamber of Trade and Commerce, Transparency Estonia, Prosecutors Office, Police and Border Guard, Internal Security Service, Forum of Responsible Business, Network of Estonian Nonprofit Organizations, Estonian Health Insurance Fund, State Audit Office and the Anti-Corruption Select Committee of the *Riigikogu*. From time to time, depending on the topic, we invite additional parties, such as the Estonian Centre for Integrity in Sports, and sometimes ministries invite organisations from their area of government.

- 2) During the country visit, it was mentioned that numerous specific trainings for prosecutors and judges were carried out in 2021. Could you please inform us who provided those trainings?**

The prosecution service considers training on all so-called white-collar crimes to be vital for the prosecutors involved in the prosecution of corruption, as such cases often are related to economic crimes and issues regulated by business law. Last year, such training included:

1. Roundtable on economic and corruption crimes, 07.-08.09.2021 (presentations by Kristel Siitam-Nyiri – EPPO prosecutor, a member of the leadership of the Financial Inspectorate, the Head of the Estonian FIU and state prosecutors).
2. Roundtable on taxation crimes 07.10.2021.
3. Training series on economic crime in the Baltics: First series: Tax fraud. VAT MTIC fraud. Shell companies. ECJ practice. Criminal proceedings 30.11-02.12.2021.

The opening conference for this project was held over 4 days in March-May, with each day dedicated to a specific topic:

- 31 March – problems that have arisen in the processing of crimes against the financial interests of the European Union and tax crimes.
- 14 April– Money laundering
- 28 April – identification and seizure of assets coming from crimes
- 12 May – processing of crimes committed in financial institutions.

Prosecutors and representatives from investigative authorities in Estonia, Latvia and Lithuania are participating in this training project aimed at increasing the capacity for investigating and prosecuting economic crimes in the Baltic States. In the framework of the project, over three years, trainings, conferences and meetings will be organised for prosecutors, investigators and judges who handle cases involving economic crimes in the Baltic states. The opening conference for the project included presentations from specialists from the three Baltic countries as well as from abroad, who provided an overview of the current situation in Estonia, Latvia and Lithuania, and insight into regulation at the EU level.

4. Prevention of money laundering and the financing of terrorism, and practical issues relating to the application of financial sanctions 04.05.2021 (instructor Indrek Tibar, financial crime prevention expert)

5. Training on financial records and analysis 04.10-05.10.2021 (training by an instructor from the TalTech, Tallinn University of Technology).

Prosecutors who handle corruption cases also participate actively in training opportunities offered by different international networks.

In 2021, there were no specific trainings for judges on corruption; however, judges were able to participate in a number of trainings organised for prosecutors. In early 2021, judges also participated in a seminar on the recent practice of the criminal panel of the Supreme Court, which also addressed corruption crimes.

- 3) During the country visit it was mentioned that as of 23.02.22, 1737 public officials have passed the e-test for the Moodle online course. Could you please inform provide information what is the overall number of officials who are supposed to take the training?**

We do not know the exact number of public officials in the meaning of the Anti-Corruption Act. There are about 28 000 employees in the civil service, of whom 22 800 work for the state and 5500 in local government. Of these, around 10 000 are officials in the meaning of the Public Service Act.

- 4) During the country visit, the representative of the Anti-Corruption Select Committee informed on the series of roundtables. Could you please indicate on which date this initiative was decided upon? How were the participating stakeholders chosen (e.g. the US Embassy)? Has any neighbouring country been willing or considered to participate? As regards the recommendations of the series of roundtables are concerned, what were those recommendations meant for specifically (the current guidelines? Possible future initiatives? How to introduce the new mechanism?)?**



Lobby
transparency in

The programmes for the roundtables is attached. Transparency International Estonia took the initiative to organise a series of roundtables on lobbying and introduced the idea to the Anti-Corruption Select Committee in November 2021 pointing out that in the US Embassy in Tallinn there is a civil servant from the US Ministry of Justice who has a remarkable knowhow on the theory and practises of lobbying – Ms Clare Dowdle and the US Embassy is willing to cover the translation costs of the event as well as some travel costs of visiting speakers. Due to the COVID-19 situation the 9 March 2022, the roundtable took place virtually and the 13 April 2022 roundtable is planned to take place virtually, too.

However, the third roundtable is planned to take place in the House of Parliament of Estonia

As one can see from the agendas of the roundtable, the experiences of neighbouring countries are a vital and integral part of the roundtables. On the first roundtable on 9 March 2022 a representative from the Latvian Parliament Saeima MS Inese Voika explained the Latvian way to the Act on Lobbying that is being debated in the Parliament now. On the roundtable in April there will be introduced the lobbying regulations by GRECO and OECD and in more particular the representatives from Finland and Iceland will elaborate the topic from their local perspectives. The way forward on how to safeguard that lobbying in Estonia will be transparent and efficient will be discussed on the roundtable taking place in May 2022.

As of the development of the existing and possible new guidelines and possible future initiatives and the implementing mechanisms, we look forward to the discussions of the coming two roundtables.

- 5) Would you have any update on the discussions on legislative transparency and integrity with regard to lobbying? During the country visit, it was mentioned that the analysis of the implementation of the Guidelines on lobbying is being currently carried out. Could you please elaborate on the parties that are involved in this analysis? Is the Anti-Corruption Network involved in this process as well?**

It is being done through cooperation between Transparency Estonia and the Ministry of Justice based on a contract. There is a network established by Transparency Estonia which is supervising the analysis. Its members are Transparency Estonia, Open Society Foundation, the Ministry of Justice, the Chamber of Commerce and Trade, the Estonian Association of Journalists, the Network of Estonian Nonprofit Organizations and the Estonian Public Relations Association.

- 6) Could you develop on the measures in place to mitigate corruption risks in the Estonia investor's residence scheme? Could you give us an overview of the number of applications received in relation to the number of applications rejected, and on what grounds can applications be rejected?**

1. Temporary residence permit to a large investor for enterprise

This is a residence permit with a purpose to facilitate making investments in such business in Estonia which is in public interests and significantly contributes to the development on the Estonian economy (Aliens Act § 1972). This type of residence permit is not included in the calculation of fulfilment of the annual immigration quota (which in Estonia shall not exceed 0,1 % of the permanent population of Estonia annually). There are several requirements of which most important are the following (Aliens Act § 1973):

- a large investor is an alien who has made a direct investment in the amount of at least 1,000,000 euros into a company, registered in the Estonian Commercial Register, investing primarily into the Estonian economy, or has made an investment into an investment fund, which, pursuant to its investment policy, invests the resources of the fund primarily into the companies entered into the Estonian Commercial register;
- direct investment includes an investment in the share capital for which real estate, machinery or equipment has been acquired and registered as fixed assets or for which investments have been made in other companies entered in the Estonian commercial register which have actual economic activities in Estonia or in an investment fund created or founded on the basis of the Investment Funds Act;

Grounds to refuse or revoke such applications are set in Aliens Act § 1975. These include:

- an alien has not made the investment specified above or the investment is not lasting during the period of validity of the temporary residence permit;
- the activity of the company or investment fund specified above does not contribute to the purpose of the issue of a temporary residence permit issued to a large investor for enterprise;
- the investment is not in the public interests;
- an alien does not provide evidence of the trustworthiness of the financial source of investment or of the business partner or
- an alien has not fulfilled the obligation related to the temporary stay, residence or employment of an alien in Estonia arising from the Aliens Act or other legislation.

During the period of 5 years (01.01.2017 – 01.01.2022) only 14 applications for temporary residence permit as a large investor for an enterprise have been submitted and 15 residence permits have been granted.

2. Temporary residence permit for enterprise

This is a residence permit with a purpose to contribute to the establishment of such companies and branches of foreign companies in Estonia and the settling of sole proprietors and their activities in Estonia which would significantly contribute to the development of the Estonian economy. This type of residence permit is a subject to the annual immigration quota (please see above). There are several requirements for business activity of which most important are the following (Aliens Act § 192):

- an alien has a holding in a company or he or she operates as a sole proprietor;
- the company or the sole proprietor is entered into the commercial register of Estonia;
- an alien has sufficient monetary resources for engaging in enterprise in Estonia;
- an alien who has a holding in a company shall have invested at least 65,000 euros in the share capital of an Estonian company, for which real estate, machinery or equipment has been acquired and registered as fixed assets in Estonia;
- an alien who is applying for a temporary residence permit for enterprise as a sole proprietor is required to have the capital in the amount of at least 16,000 euros invested in Estonia;
- the company has been registered in Estonia for less than 12 months.

Grounds to refuse or revoke such applications are set in Aliens Act § 195. These include:

- an alien does not provide evidence of the trustworthiness of his or her own current and planned business activities or of the company, of the business associates or financial resources;
- the explanations of an alien about his or her own current and planned business activities or about the company are not convincing or are controversial;
- an alien does not provide evidence that his or her stay in Estonia on the basis of the residence permit would significantly contribute to the achievement of the purpose of the temporary residence permit for enterprise;
- an alien does not provide evidence of how his or her own activities or the activities of a company would contribute to the achievement of the purpose of the temporary residence permit for enterprise;
- the current activities of an alien or a company are not in accordance with the plans in the description of the business plan or with the purpose of the temporary residence permit for enterprise;
- an alien has failed to meet the condition related to the temporary stay, residence and employment in Estonia of an alien arising from the Aliens Act or any other law.

During the period of 5 years (01.01.2017 – 01.01.2022) 289 applications for temporary residence permits for enterprise have been submitted and 152 have been granted.

7) Your written input mentions the development of the TEKSA database. Could you please provide some information on how this project was initiated and on who's initiative? Who is responsible for the development of this project?

On March 9, 2022, the database of actual beneficiaries, or TEKSA, was launched, which, among other things, makes it possible to report discrepancies between what is entered in the database and reality. TEKSA is legally separate from the Commercial Register, but the information is still displayed through the same service. It is administered by the Ministry of Finance. <https://www.fin.ee/uudised/touseb-tegelike-kasusaaajate-andmete-kvaliteet>.