

LIBERTIES

RULE OF LAW REPORT

2024

ESTONIA

#ROLREPORT2024



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ESTONIAN HUMAN
RIGHTS CENTRE



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FOREWORD

This country report is part of the Liberties Rule of Law Report 2024, which is the fifth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Latvia.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2024 report was drafted by Liberties and its member and partner organizations, and it covers the situation during 2023. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2024 report includes 19 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Thirty-seven member and partner organisations and one independent human rights expert contributed to the compilation of these country reports.

[Download the full Liberties Rule of Law Report 2024 here](#)

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ESTONIA

About the authors



ESTONIAN HUMAN
RIGHTS CENTRE

Estonian Human Rights Centre (EHRC) is an independent public interest foundation dedicated to the advancement of protection of human rights in Estonia. EHRC is engaged in research, monitoring, advocacy and awareness-raising activities to advance the protection of human rights. The mission of EHRC is to work together for Estonia to become a country that respects the human rights of each person in the country. EHRC develops its activities according to the needs of the society. EHRC's focus is currently on the advancement of equal treatment of minority groups, diversity & inclusion, the human rights of asylum seekers and refugees, hate speech and hate crime, and data and privacy. EHRC coordinates the Estonian Diversity Charter. EHRC also monitors the overall human rights situation in Estonia and publishes independent human rights reports about the situation in Estonia. As a whole, EHRC carries out a broad-based, effective, and sustainable advocacy in the field of human rights.

Key concerns

In the area of justice, the same issues persist from the previous year – the state legal aid system is underfunded and needs reform, and the lack of human resources threatens the quality of the justice system. While small steps have been taken to solve these issues, more effort is required.

As regards the anti-corruption framework, the distribution of “roof money” (*katuseraha*) was abolished, but significant and long-awaited

laws remain unadopted. The EU Directive on Whistleblowing and legal amendments requiring Members of Parliament to disclose their lobbying meetings publicly are still not implemented. On the other hand, it is positive that there is a willingness to address the guidelines on conflicts of interest by developing a draft amendment to the Anti-Corruption Act, but the draft law has not yet reached the Parliament.

Although Estonia has dropped in some international freedom of speech rankings, the

country has not enacted any laws restricting media freedom, nor has it implemented any new positive measures to support media freedom. Moreover, public authorities continue to classify documents as “for internal use only” without good reason.

Regarding checks and balances, laws have been rushed through the Parliament with minimal time for consultation with stakeholders. The opposition’s obstruction has led to draft laws being tied to votes of confidence in the government. Furthermore, prisoners are still prohibited from voting and further voting restrictions are considered for Russian and Belarusian citizens.




There have been no major developments in the Estonian civic space compared to last year, and the EU Commission’s 2023 report did not make any relevant recommendations in this area.

In terms of disregard of human rights obligations, two violations repeatedly pointed out by the Chancellor of Justice and the Estonian Human Rights Centre over the years remain unaddressed.

State of play (versus 2023)

- Justice system
- Anti-corruption framework
- Media environment and freedom of expression and of information
- Checks and balances
- Enabling framework for civil society
- Systemic human rights issues

Legend

- | | | |
|---|---|---|
| Regression | No progress | Progress |
|  |  |  |

Justice system –

Key recommendations

- *Collaborate with the Estonian Association of Judges and the Council for Administration of Courts to find solutions for the generational change among judges.*
- *Collaborate with the Estonian Bar Association to reform the state legal aid system.*

Judicial independence

The perception of independence of the judiciary remains high among the general public.

According to a 2023 survey on the trustworthiness of institutions in Estonia, 71% of respondents consider the courts trustworthy. This result matches the figure from the same

survey conducted in 2021 and represents the highest level of trust recorded.¹

The Disciplinary Chamber of the Supreme Court reviewed two cases in 2023. In the first, the Chamber found a judge from Harju County Court guilty of unjustifiably refusing to administer justice by recusing himself from handling a civil case.² In the second case, the Chamber found another Harju County Court judge guilty of delaying the settlement of civil cases, violating the reasonable procedural time requirement and not making court decisions within the stipulated time. The judge admitted that in many cases the resolution of the case was delayed due to heavy workload, inadequate work organisation and diagnosed burnout.³

Quality of justice

In February 2023, the Parliament adopted amendments to the Courts Act (*Kohtute seadus*), establishing specialised departments in every court. The amendments updated the management⁴ structure of county courts, transferring them from court-based management to sectoral

management. In some courts, there has been no opposition to the creation of departments and the work is going smoothly. Other courts have expressed that the reorganisation has not been easy, but they are working to implement the changes.⁵

Accessibility of courts

On 31 January 2023, the Minister of Justice amended the relevant regulation to increase the fees paid to lawyers for providing state legal aid.⁶ This decision followed warnings from the country's Bar Association and the Chancellor of Justice that the state legal aid system is not sustainable or constitutional, as the underfunding may pose a threat to the right to a fair trial.⁷ The hourly fees for all types of state legal aid increased by up to 30%. The amendments also stipulate a fee for presenting a court decision to a minor and a fee for representing multiple individuals, among other changes. The Ministry of Justice is also analysing the possibility of creating additional options alongside the Bar Association to ensure uninterrupted service in case the need

1 Supreme Court of Estonia (*Riigikohus*), Uuring: kohtuid usaldab 71% eestimaalastest, 28 November 2023.

2 Supreme Court of Estonia (*Riigikohus*), Judgement of the Disciplinary Chamber in case no. 9-13/22-3, 30 March 2023.

3 Supreme Court of Estonia (*Riigikohus*), Judgment of the Disciplinary Chamber in case no. 9-13/23-1, 1 December 2023.

4 Parliament (*Riigikogu*), Kohtute seaduse muutmise ja sellega seonduvalt teiste seaduste muutmise seadus 633 SE.

5 Council for Administration of Courts (*Kohtute haldamise nõukoda*), Minutes of the 125th meeting of the Council for Administration of Courts, 2 June 2023.

6 Riigi Teataja, Justiitsministri 26. juuli 2016. a määruse nr 16 „Advokaadile riigi õigusabi tasu maksmise ja kulude hüvitamise kord” muutmise.

7 Estonian Public Broadcasting (*ERR*), Advokatuur: riigi õigusabi süsteem vajab reformimist, 10 June 2022; Chancellor of Justice, Ettepanek riigi õigusabi osutamise eest makstava tasu määrade kohta, 17 November 2022.

for state legal aid unexpectedly increases or if a representative with specific skills is required, such as in cases related to children.⁸

Lawyers have pointed out that the new fee rates are still much lower than the market rates. In addition, there is a cap on how many hours can be invoiced – it may happen that a fee can be requested for 1.5 hours of work, even if the actual working time is, for example, 4 hours. The head of the Bar Association suggested that it might be fair if the state also procured legal aid services through a tender, like other services.⁹

Resources of the judiciary

The lack of human resources has been highlighted as the biggest concern in the Estonian legal system. Supreme Court Chief Justice Villu Kõve has repeatedly drawn attention to the challenges of generational change among judges. Within the next five years, about 65 out of Estonia's nearly 250 judges are eligible for retirement, yet there are few candidates competing to fill these positions. Last year, three civil law judgeships in county courts were left unfilled. Kõve emphasised the need to make working in the courts more attractive for young people and to consider the changed

expectations of upcoming generations regarding their careers, for example, by creating more opportunities for transitioning between different professions, working flexibly or part-time. Additionally, Kõve believes that it is necessary to review the social security benefits for judges. Among other measures, the state could make additional contributions to the judges' pension fund. According to Kõve, it is also worth considering easing the activity restrictions on judges, such as allowing them to engage more in activities such as entrepreneurship, provided that it does not interfere with their primary duties.¹⁰

In response to these concerns, in November 2023, the Ministry of Justice announced its intention to develop a draft law amending the Courts Act. The aim of the draft law is to allow a judge to work part-time over an extended period, to permit a judge to engage in business activities (provided that it does not conflict with the judges' code of ethics or impair the performance of a judge's official duties or independence), to give a higher-level judge the competence to provide feedback to a lower-level judge, and to make it easier to apply for an extension of the maximum working age.¹¹ This legislative initiative is currently in the consultation process with other ministries.

8 Estonian Public Broadcasting (*ERR*), [Riigi õigusabi osutavate advokaatide tasu tõuseb kuni 30 protsenti](#), 2 February 2023.

9 Sorainen, [Riik peaks hakkama õigusabi ostma turupõhise hinnaga nagu muidki teenuseid](#), 27 January 2023.

10 Supreme Court of Estonia (*Riigikohus*), [Villu Kõve: õigussüsteemi suurimaks mureks on kvaliteetse inimressursi puudus](#), 10 October 2023.

11 Draft Legislation Information System (*Eelnõude Infosüsteem*), [Kohtute seaduse muutmise seaduse eelnõu väljatöötamise kavatsus](#), 16 November 2023.

On 6 December 2023, the Parliament adopted a law that amends the Salaries of Higher State Servants Act (*Kõrgemate riigiteenijate ametipalkade seadus*). Specifically, it modifies the indexing of salaries in a way that reduces the growth of salaries for higher-ranking public servants in the four years following the enactment of the law, in order to decrease the deficit of the state budget. According to the draft law, the salary increase for the Prime Minister, members of the Supreme Court (except the Chief Justice of the Supreme Court), Prosecutor General, ministers, circuit, county, and administrative court judges, and other public servants will be reduced so that the increase over a four-year period constitutes half of the salary increase calculated according to the existing methodology.¹² During the legislative process, the Estonian Association of Judges asked Parliament to exclude judges from the scope of the amendment in order to ensure the sustainability of the judicial system.¹³ However, the final version of the amended law still includes judges.

Fairness and efficiency of the justice system

Length of proceedings

The current government coalition in Estonia has set a goal to continue with court reforms to reduce the amount of bureaucracy in the functioning of courts.¹⁴ In August 2023, the Ministry of Justice sent a legislative proposal for a draft law to stakeholders for their opinions, aiming to amend the rules of administrative court proceedings to enable faster and more efficient resolutions of complex and voluminous administrative cases.¹⁵ For example, it is planned to give the courts the opportunity to make an interim decision to identify the errors in the contested administrative decision and to give the administrative body the opportunity to eliminate these deficiencies, after which the court proceedings would continue from where they left off. It is also planned to increase the role of the court in compromise negotiations and to set a time limit for the negotiations, as well as making it possible to request a legal opinion from the Supreme Court.¹⁶

In January 2023, the European Court of Human Rights found that Estonia had violated

12 Parliament (*Riigikogu*), *Kõrgemate riigiteenijate ametipalkade seaduse täiendamise seadus 305 SE*, 6 December 2023.

13 Estonian Association of Judges (*Eesti Kohtunike Ühing*), *Pöördumine kõrgemate riigiteenijate ametipalkade seaduse täiendamise seaduse eelnõu muudatusettepaneku algatamiseks*, 27 October 2023.

14 Government of the Republic (*Vabariigi Valitsus*), *Coalition agreement 2023–2027*.

15 Ministry of Justice, *Ministeeriumi ettepanek muudaks keeruliste haldusajade lahendamise efektiivsemaks*, 8 August 2023.

16 Draft Legislation Information System (*Eelnõude Infosüsteem*), *Halduskohtumenetluse seadustiku muutmise seaduse eelnõu (kohtumenetluse tõhustamine) väljatöötamise kavatsus*, 8 August 2023.

Article 5 § 3 of the European Convention on Human Rights (ECHR) due to the excessive length of pre-trial detention of an applicant, lasting approximately four and a half years, calculated from the applicant's remand in custody until his conviction by the first-instance court. The Court acknowledged that the case

– which concerned organised crime – was particularly difficult to investigate for the authorities and the courts, but it also noted that there were periods of inactivity in the proceedings, when no hearings were scheduled or held. The Court awarded the applicant €4,500 in compensation.¹⁷

Anti-corruption framework –

Key recommendations

- *Adopt the Protection of Whistleblowers Reporting Violations of European Union Law in the Workplace Act currently under review in the Parliament, thereby transposing the EU Directive on Whistleblowing.*
- *Adopt the necessary legal amendments for the Members of the Parliament to start making their lobbying meetings public.*

Levels of corruption

According to the Global Corruption Index released by the international risk analysis company Global Risk Profile (GRP), Estonia dropped by one place in the 2023 Index and is now ranked sixth, yet it continues to be among the countries with a very low corruption risk.¹⁸ In the 2022 Corruption Perception Index published by Transparency International in January 2023, Estonia remains stable

compared to previous years, sharing 14th-17th place with Canada, Iceland and Uruguay, with 74 points.¹⁹

Framework to prevent corruption

As a result of the work of an expert group convened by the Government Office, an open governance roadmap was created in spring 2023 with the aim to improve inclusive decision-making and strengthen cooperation

¹⁷ European Court of Human Rights, Case of Abuladze v. Estonia (Application no. 12928/20), 24 January 2023.

¹⁸ Global Risk Profile, Global Corruption Index 2023.

¹⁹ Transparency International, Corruption Perception Index 2022, 2022.

in public affairs.²⁰ The roadmap won the annual title of Anti-Corruption Act 2023 from Transparency International Estonia. The organisation found that the implementation of the roadmap could result in clearer rules, more appropriate methods for engaging with stakeholders, improved skills and attitudes, and a culture of cooperation.²¹

General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

For many years, the Network of Estonian Nonprofit Organisations and other stakeholders have criticised the system of distributing “roof money” (*katuseraha*), a non-transparent method which allowed Members of the Parliament to distribute state funds to NGOs at their discretion once a year.²² In 2023, the new coalition abolished the practice of *katuseraha* distribution. Prime Minister Kaja Kallas stated that the *katuseraha* system was non-transparent

and not in accordance with principles of good governance.²³

The previous composition of the Parliament was lukewarm on regulating meetings with lobbyists, and no major steps have been taken since the spring elections. In November 2023, the Anti-Corruption Select Committee of the Parliament examined the opinion of political groups on the possibility of regulating meetings between lobbyists and Members of the Parliament, in order to determine whether and how to move forward with the issue.²⁴

Rules on preventing conflicts of interest in the public sector

The Ministry of Justice sent a draft amendment to the Anti-Corruption Act for consultation with ministries and civil society in November 2023. The draft amendment clarifies the obligation of an official to remove themselves from cases where a personal conflict of interest exists, and introduces requirements for declaring new types of assets, such as virtual currencies. In addition, the draft clarifies the concepts

20 Government Office (*Riigikantselei*), [Aasta korruptsioonivastane tegu on Riigikantselei avatud valitsemise teekaart](#), 14 December 2023.

21 Transparency International Estonia (*Korruptsioonivaba Eesti*), [Korruptsioonivastase teo tunnustuse pälvis avatud valitsemise teekaardi koostamine](#), 9 December 2023.

22 A. Rammo, [Human Rights Report 2020: Freedom of assembly and association](#), Estonian Human Rights Centre, December 2019.

23 Government of the Republic (*Vabariigi Valitsus*), [Kallas in the Riigikogu: a proper budget is an important security guarantee for Estonia](#), 27 September 2023.

24 Estonian Public Broadcasting (*ERR*), [Komisjon uurib riigikogu fraktsioonidelt lobistide registri kohta](#), 7 November 2023.

of “procedural restriction” and “connected person”.²⁵

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

After the 2023 parliamentary elections, the draft law on the Protection of Whistleblowers Reporting Violations of European Union Law in the Workplace passed its first reading in Parliament.²⁶ In its opinion, Transparency International Estonia drew attention to the fact that the substantive scope of the draft is significantly limited and restricted to only those employment-related infringements which would also constitute infringements under EU law. The organisation reiterated its position that anyone who reports an infringement that took place in the context of work should be protected. In the case of a narrower transposition of the Whistleblower Directive, limited by a clause stating that reports of breaches must be related only to breaches of EU law, the whistleblower has to navigate more than 140 pieces

of EU legislation to find out whether the violation could be related to EU law. At the same time, the organisation supports swift passage of the draft law, as Estonia is one of the last two EU Member States (out of 27) that have not transposed the EU Whistleblower Directive.²⁷ Estonia missed the deadline to transpose the Directive on 17 December 2021, and the European Commission initiated infringement proceedings against Estonia in January 2022.²⁸ The first draft of the Whistleblower Protection Act,²⁹ which completed its first reading in the Parliament in January 2022, sparked lively social and political debate and raised concerns about the potential creation of a major complaint system.³⁰ Nearly 300 amendments were proposed in the Parliament, which caused the bill’s processing to stall. With the end of the term of the Parliament, the draft law fell out of the legislative process in February 2022.³¹

25 Draft Legislation Information System (*Eelnõude infosüsteem*), *Korruptsioonivastase seaduse muutmise seadus*. 1 November 2023.

26 Parliament (*Riigikogu*), *Töölasest Euroopa Liidu õiguse rikkumisest teavitaja kaitse seadus 257 SE*, 11 September 2023.

27 Transparency International Estonia (*Korruptsioonivaba Eesti*), *Seisukoht töölasest Euroopa Liidu õiguse rikkumisest teavitaja kaitse seaduse eelnõule*, 13 October 2023.

28 Estonian Public Broadcasting (*ERR*), *Vilepuhuja direktiivi ülevõtmise tulevik jääb uue riigikogu otsustada*, 16 February 2023.

29 Parliament (*Riigikogu*), *Rikkumisest teavitaja kaitse seadus 504 SE*, 10 January 2022.

30 Estonian Public Broadcasting (*ERR*), *Vilepuhumise seadus puhub ka poliitkired lõkkele*, 31 January 2022.

31 Estonian Public Broadcasting (*ERR*), *Vilepuhuja direktiivi ülevõtmise tulevik jääb uue riigikogu otsustada*, 16 February 2023.

Media environment and media freedom -

Key recommendations

- *Authorities should refrain from introducing additional regulations that could lead to further classification of public documents.*
- *Authorities should refrain from classifying documents without proper justification.*

Media and telecommunications authorities and bodies

In international freedom of speech rankings, Estonia fell during the previous year. According to Reporters without Borders (RSF), Estonia ranked eighth out of 180 countries in the world in 2023, down from fourth in 2022. The reason for the fall is the risk of self-censorship by journalists due to the legal regulation of defamation and cyber-bullying.³² Estonia scores 93 out of 100 in the Internet freedom assessment by Freedom House, where 100 is perfect Internet freedom.³³

In summer 2023, the Consumer Protection and Technical Regulatory Authority (TTJA) proposed to include in the draft law amending the Media Services Act an obligation for media service providers to ensure truthful, unbiased

and balanced presentation of facts and events in news programmes.³⁴ In the context of this obligation, TTJA would have acted as an independent media regulator for the entire media market. The Association of Estonian Media Companies stated in its feedback that it is absolutely against the idea that the executive power (TTJA) could be an independent media regulator, expressing that the press can only be independent if it is neither directly nor indirectly subject to the control of the executive power.³⁵ TTJA eventually expressed regret and clarified that their proposal only concerned broadcasts from third countries.³⁶ The Media Services Act has not been updated yet.

Public trust in media

The Eurobarometer survey carried out last autumn found that the credibility of Estonian

32 Reporters Without Borders, [Press Freedom Index 2023](#), 2023.

33 Freedom House, [Internet Freedom 2023](#), 2023.

34 B.-M. Alas, [TTJA tahab seadusega reguleerida meedia erapooletust ja tasakaalukust](#), Postimees, 4 July 2023.

35 Estonian Public Broadcasting (ERR), [Meedialiit: TTJA ei saa olla terve meediaturu sõltumatu regulaator](#), 4 July 2023.

36 Estonian Public Broadcasting (ERR), [TTJA peadirektor: meie ettepanek puudutab ainult kolmandate riikide saateid](#), 5 July 2023.

public TV and radio stations had fallen by 8% in 2023 compared to the previous year. In 2022, 67% of respondents considered public TV and radio stations to be trustworthy,³⁷ compared to 59% in 2023.³⁸ According to a public opinion survey published in September 2023 by the Government Office, 65% of the population trusted Estonian media in covering the war in Ukraine, down from 73% in February 2022.³⁹

Safety and protection of journalists and other media actors

Lawsuits and prosecutions against journalists (including SLAPPs) and safeguards against abuse

An analysis commissioned by the Supreme Court and the Ministry of Justice shows that the nature of the offences on which the award of compensation for non-material damage suffered is based has changed in recent years. While in the past compensation was mainly awarded against media companies, it is now being awarded increasingly for defamation on social media and in comment sections. The analysis examined the judgments issued in civil cases from 2020 to 2022, where the court

awarded compensation for non-material damage suffered as a result of the aforementioned infringements of personal rights. During the analysed period, compensation for a violation of personal rights was awarded in 71 cases, with the average compensation amounting to €1,502 and the median compensation being €500 – the number of cases where the compensation was bigger or smaller than this amount was equal. If the infringer was a private individual, the median compensation was between €300 and €500, but if the infringer was a media outlet or channel, the median was significantly higher, at €2,000.⁴⁰

Access to information and public documents

Over the past year, there has been debate and public criticism regarding public authorities classifying documents as “for internal use only” merely for reasons of convenience.⁴¹ In his annual report, the Auditor General highlighted a concerning trend of excessive classification of documents. Addressing the Parliament, he emphasised that even Members of Parliament have faced barriers in accessing contracts and documents, often for reasons that are not clearly justified. Furthermore, he also noted that journalists frequently encounter obstacles in their requests for information, frequently receiving

37 Eurobarometer, *Media & News Survey 2022*, p. 37.

38 Eurobarometer, *Media & News Survey 2023*, p. 44.

39 Government Office (*Riigikantselei*), *Uuringud*.

40 Supreme Court of Estonia (*Riigikohus*), *Au teotamise eest mõistetakse aina enam hüvitisi välja eraisikutelt*, 20 December 2023.

41 Estonian Public Broadcasting (*ERR*), *Dokumentide massiline salastamine AK-märke abil jätkub*, 25 August 2023.

material that is irrelevant to their inquiries.⁴² Moreover, when the Ministry of Justice sent a letter to state authorities in October 2023 inquiring about ways to improve data sharing, the responses it received were mostly proposals on what else could be classified.⁴³ Afterwards,

the Association of Estonian Media Companies expressed its disagreement with the attempts of the ministries to restrict public information more than before and opposed the idea that more classification is in the public's interest.⁴⁴

Checks and balances

Key recommendations

- *Reduce the speed of the legislative process and ensure that citizens and interest groups have the opportunity to participate.*
- *Lift the blanket ban on prisoners voting in elections.*
- *Refrain from depriving third-country nationals of their right to vote in local elections.*

Process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

After the parliamentary elections in March 2023, opposition parties organised a large-scale obstruction to prevent the passing of amendments to increase taxes and reduce family benefits.⁴⁵ The opposition parties submitted more than 1,000 amendments to the draft laws. In June 2023, to avoid filibustering, the government decided to bind the draft Family Benefits Act and the amendments to tax laws to a vote of

42 Estonian Public Broadcasting (ERR), [Estonian ministries would like to restrict public access to many documents](#), 16 November 2023.

43 Eesti Päevaleht, [Juhtkiri: Aitab salastamisest! Muudame Eesti tagasi avatud riigiks](#), 20 November 2023.

44 Association of Estonian Media Companies (*Eesti Meediaettevõtete Liit*), [Meedialiit ei toeta avaliku teabe suuremat salastamist](#), 20 November 2023.

45 Estonian Public Broadcasting (ERR), [Opposition obstructs tax, benefit change amendment readings](#), 8 May 2023.

confidence in the government.⁴⁶ Since then, the government has tied numerous other draft laws to votes of confidence, including the draft law to establish marriage equality. Opposition politicians criticised this approach, and complained that the governing coalition did not hold a debate on the issue of legalising same-sex marriage.⁴⁷ President Alar Karis has also expressed disagreement with tying so many amendments to a vote of confidence in the government, saying that if the government were to make all proposed laws subject to a vote of confidence, it would be manifestly unconstitutional and result in the end of parliamentary democracy. He also highlighted a recent Supreme Court decision⁴⁸ that warned against misusing both votes of confidence and the filibuster. Prime Minister Kaja Kallas reacted to President Karis by saying that all of these laws were passed in accordance with the Constitution and that the draft laws were only subject to a vote of confidence when they were obstructed, as the confidence vote is the only weapon against filibustering.⁴⁹

The Chancellor of Justice has criticised the hasty processing of draft laws and extremely short consultation times, which can lead to

mistakes.⁵⁰ Civil society representatives have also recommended reducing the speed of the legislative process, as it does not provide citizens and interest groups the opportunity to have their say.⁵¹

Electoral framework

The Parliament (Riigikogu) is currently reviewing a draft law amending the Riigikogu Election Act. The aim of the draft law is to make the regulation of electronic voting clearer and eliminate the shortcomings that have arisen in practice. The amendments would bring the regulation established by the decisions of the National Electoral Committee to the level of law, making the regulation of electronic voting more consistent with the principle of legality, as well as being clearer and easier to monitor. The functioning of electronic voting is not fundamentally or technically changed by these amendments. The second goal of the amendments is to clarify the conditions and procedures for the use of mobile devices in electronic voting, specifying the roles and procedures for establishing relevant technological requirements. The draft law creates a legal basis for the

46 Government of the Republic (*Vabariigi Valitsus*), The Government bound the adoption of the Family Benefits Act and tax changes to an issue of confidence in the Riigikogu, 8 June 2023.

47 Estonian Public Broadcasting (*ERR*), Opposition accuses coalition of not holding same-sex marriage debate, 20 June 2023.

48 Supreme Court of Estonia (*Riigikohus*), Judgment of the Constitutional Review Chamber in case no. 5-23-31, 22 June 2023.

49 Estonian Public Broadcasting (*ERR*), President Karis worried about government's excessive use of confidence vote, 27 June 2023.

50 Estonian Public Broadcasting (*ERR*), Madise: seaduseelnõudega kiirustamine toob kaasa vigu, 23 May 2023.

51 A. Rammo, Human Rights in Estonia 2024 – Freedom of assembly and association, Estonian Human Rights Centre, 11 December 2023.

introduction of Smart-ID, in addition to the currently used personal identification tools.⁵²

Regarding the 2023 parliamentary elections, 17 complaints were submitted to the Supreme Court, of which 12 were reviewed, and five were left unreviewed.⁵³ Eight of the reviewed complaints were related to electronic voting. The Supreme Court did not uphold any of the complaints. Two complaints from the Conservative People's Party of Estonia (EKRE) challenging the constitutionality of electronic voting gained the most attention. Although the complaints were not upheld, the Supreme Court emphasised the need to clarify the rules of electronic voting to ensure compliance with constitutional principles and better public understanding.⁵⁴ The Chief Justice of the Supreme Court provided a concurring opinion, agreeing that the complaints were handled correctly, however, he stressed that the rules of electronic voting should be clearly defined and understandable without special expertise.⁵⁵

The same has been recommended by the OSCE/ODIHR election expert team, which

observed the parliamentary elections in 2023. They concluded that Estonia's legal framework complies with international standards, and the organisation of the elections, including e-voting, was effective and lawful, although there were some minor technical errors. One of the recommendations of the expert team was that election authorities should increase public trust in e-voting, particularly by responding more promptly to stakeholders' questions.⁵⁶

Limitations on the right to vote

The coalition agreement of the current government includes the goal of developing a legal framework for the "suspension of the right of citizens of the Russian Federation and Belarus to vote in local government elections in Estonia without the need to amend the Constitution".⁵⁷ The Minister of the Interior has confirmed that an analysis has been prepared by the Ministry of Justice on the constitutionality of depriving Russian citizens of the right to vote. Estonian Public Broadcasting (ERR) requested access to the analysis from the Ministry of Justice,

52 Parliament (*Riigikogu*), Riigikogu valimise seaduse muutmise ja sellega seonduvalt teiste seaduste muutmise seadus 344 SE, 13 November 2023.

53 Supreme Court of Estonia (*Riigikohus*), Riigikohtule esitati seoses tänavuste Riigikogu valimistega 17 kaebust, 3 April 2023.

54 Supreme Court of Estonia (*Riigikohus*), Judgment of the Constitutional Review Chamber in case no. 5-23-20, 30 March 2023.

55 Supreme Court of Estonia (*Riigikohus*), Concurring opinion of Supreme Court Judge Villu Kõve in case no. 5-23-20.

56 OSCE Office for Democratic Institutions and Human Rights, Estonia Parliamentary Elections 5 March 2023, ODIHR Election Expert Team Final Report, 30 August 2023.

57 Government of the Republic, Coalition agreement 2023-2027. 2023.

however, the ministry refused to release it, arguing that it is intended for internal use.⁵⁸

All prisoners in Estonia are still deprived of their right to vote. This has been widely criticised, including by the Supreme Court, which

has found that the blanket ban on prisoners' right to vote is contrary to the Constitution interpreted in the light of the case law of the European Court of Human Rights.⁵⁹ The Ministry of Justice has stated that changing the law is not in their immediate plans.⁶⁰

Civic space

Key recommendations

- *Public meetings should not be banned; however, if such a measure is deemed necessary, it must be a last resort and strongly justified.*
- *Amend the Penal Code in terms of criminalisation of hate speech in accordance with EU law.*

Freedom of association

Formation, establishment and registration of associations, including rules on membership

The new Commercial Register Act entered into force on 1 February 2023.⁶¹ The conditions of the liquidation of NGOs have been slightly clarified and, as a result, an organisation that has been deleted from the register will be

allowed to continue its activities, which will somewhat reduce bureaucracy. The change may lead to a more forceful deletion of NGOs from the register if they fail to submit their annual reports. Experts, however, do not view this as a violation of the freedom of association.⁶²

58 Kook, U. 2023. [Justiitsministeerium pani AK-templi Vene kodanike valimisõiguse analüüsile](#), ERR, 17 August 2023.

59 Supreme Court of Estonia (*Riigikohus*), [Judgment in case no. 3-4-1-2-15](#), 1 July 2015.

60 [Response of the Ministry of Justice to the Estonian Human Rights Centre's request for information](#), 11 September 2023.

61 Riigi Teataja, [Commercial Register Act \(*Äriregistri seadus*\)](#).

62 A. Rammo, [Human Rights in Estonia 2024: Freedom of assembly and association](#), Estonian Human Rights Centre, December 2023.

Freedom of peaceful assembly

Bans on protests

From 26 July to 2 August 2023, the Police and Border Guard Board, a unified governmental agency within the administrative area of the Ministry of Interior responsible for law enforcement and internal security, banned public meetings in Narva motivated by Russian war propaganda-related anniversaries.⁶³ The basis used was the section of the Law Enforcement Act that allows the prefect to prohibit a meeting if “there is reason to believe that holding a meeting creates a serious immediate threat and the threat cannot be countered by using a less infringing measure”.⁶⁴

The Southern Prefecture of the Police and Border Guard Board completely banned the event “In support of the human rights of the Palestinians – the right to life, the right to humanitarian aid, the right to a future”, planned for 18 November 2023 in Tartu Town Hall Square,⁶⁵ this time on the basis of § 62 section 3 of the Law Enforcement Act, which prohibits events inciting hatred, violence or discrimination. The reason given was that “other citizens

may attend the meeting, using posters which may contain justifications of aggression”.⁶⁶

Bans on the use of symbols/slogans in protests

In November 2023, the police removed five people from a demonstration in Tallinn in support of Palestine and took them to a police station for further questioning. The people in question were using the slogan “From the river to the sea, Palestine will be free”. The police fined the five people in question under § 151¹ of the Penal Code, which prohibits supporting and justifying international crime.⁶⁷ Four of them appealed the decision with the assistance of the Estonian Human Rights Centre, explaining that the people at the demonstration were exercising their constitutional right to freedom of expression and that their participation in the demonstration was linked to their desire to stand up for a peaceful world. The court was asked to declare § 151 of the Penal Code unconstitutional and – consequently – invalid. The provision is intended to punish people who intentionally support and justify international crimes. According to the Estonian Human Rights Centre, however, it currently also allows

63 Estonian Public Broadcasting (*ERR*), [Police ban Russian war propaganda-related public meetings in Narva](#), 25 July 2023.

64 A. Rammo, [Human Rights in Estonia 2024: Freedom of assembly and association](#), Estonian Human Rights Centre, December 2023.

65 Estonian Public Broadcasting (*ERR*), [PPA banned November Tartu demonstration planned in support of Palestinians](#), 6 December 2023.

66 A. Rammo, [Human Rights in Estonia 2024: Freedom of assembly and association](#), Estonian Human Rights Centre, December 2023.

67 Estonian Public Broadcasting (*ERR*), [Police impose fines on 5 participants in demonstration in support of Palestine](#), 5 December 2023.

people to be punished if they have inadvertently committed an infringement.⁶⁸

Policing practices, including dispersion of protests, use of force

In spring 2023, the Law Enforcement Act was brought into line with the Weapons Act, granting the right to also use munitions (e.g. various grenades, gases) “as a last resort to counter an immediate threat” when applying direct coercion, in addition to physical force, special equipment and weapons. The latter may only be used by the police and Border Guard, the Internal Security Service and the defence forces, and the use of munitions in peaceful public gatherings against crowds is prohibited.⁶⁹ The amendment was intended to better respond to extraordinary hybrid threats, but experts say it could also have a potential impact on freedom of assembly.⁷⁰

Freedom of expression and of information

Rules on hate speech and their enforcement

On 12 June 2023, the government initiated the Act Amending the Penal Code, the Code of Criminal Procedure and the Code

of Misdemeanour Procedure (incitement to hatred and offences with a hate motive), which passed its first reading in the Parliament on 27 September 2023. The new draft provides for the punishment of individuals who incite hatred in a way that may endanger public order. According to the Explanatory Memorandum of the draft, a public provocation that is likely to lead to various offences, such as arson or destruction of property, as well as to systematic intimidation, persecution, discrimination or humiliation of people, constitutes a threat to the security of society.⁷¹ The stakeholders were pleased about the inclusion of disability as a new protected group in the draft. However, they are concerned that the Explanatory Memorandum failed to explain why there are no plans to add other categories, such as age and gender identity, which could also be directly affected by hate speech.⁷²

Attacks and harassment

Physical attacks on people and property

On 11 June 2023, a Finnish pastor, attending the Baltic Pride event as a speaker, was assaulted. The assailant, who was sober and held Russian citizenship, hurled insults and ranted

68 Estonian Human Rights Centre (*Eesti Inimõiguste Keskus*), [Estonian Human Rights Centre Takes Legal Action to Protect Freedom of Expression](#), 21 December 2023.

69 Riigi Teataja, [Relvaseaduse muutmise ja sellega seonduvalt teiste seaduste muutmise seadus](#), 22 February 2023.

70 A. Rammo, [Human Rights in Estonia 2024: Freedom of assembly and association](#), Estonian Human Rights Centre, December 2023.

71 Parliament (*Riigikogu*), [Karistusseadustiku, kriminaalmenetluse seadustiku ja väärteomenetluse seadustiku muutmise seadus \(vaenu õhutamine ja vaenumotiiviga kuriteod\) 232 SE](#), 12 June 2023

72 K. Grossthal, [Human Rights in Estonia 2024: Prohibition of discrimination](#), Estonian Human Rights Centre, December 2023.

about God's wrath against homosexuals, believing he was fulfilling God's will. The pastor was hospitalised, and two others at the scene

needed first aid. Police apprehended the suspect and initiated a criminal investigation.⁷³

Disregard of human rights obligations and other systemic issues affecting the rule of law environment

Key recommendations

- *Amend the Electronic Communications Act to stop indiscriminate retention of communications data, thereby bringing Estonian law in line with EU law.*
- *Address the situation of prisoners with mental health disorders in accordance with the recommendations of the Chancellor of Justice and the European Committee for the Prevention of Torture.*

Systemic human rights violations

The Chancellor of Justice has repeatedly drawn attention to the issue of the treatment of prisoners with mental disorders. The situation in the psychiatric department of prisons (located in Tartu Prison) has remained unchanged for years, and the prison has not followed the recommendations of the European Committee for

the Prevention of Torture⁷⁴ or the Chancellor of Justice⁷⁵ that were issued in the past. These recommendations concerned the ward's living conditions and therapy options, as well as video surveillance and the use of restraint measures.⁷⁶

The Estonian state has still not addressed the issue of violation of privacy rights in relation to the indiscriminate retention of communications data of all Estonian residents. The Electronic

73 Estonian Public Broadcasting (*ERR*), Man attacks Finnish pastor at Association of Gay Christians event, 12 June 2023.

74 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Estonia: Visit 2017 – Health-care services at Tartu Prison, p. 62-63, 26 April 2018.

75 Chancellor of Justice (*Õiguskantsler*), Inspection visit to Tartu Prison and the psychiatric department of prisons, 5 May 2021.

76 Chancellor of Justice (*Õiguskantsler*), Inspection visit to Tartu Prison and the psychiatric department of prisons, 31 August 2023.

Communications Act § 111¹ requires general and indiscriminate retention of metadata by providers of electronic communications services for one year from the date of the communication, which can be forwarded to the state authorities listed in the act based on relevant laws.⁷⁷ In 2021, the Supreme Court confirmed that indiscriminate retention of electronic communications data based on § 111¹ (2) of the Electronic Communications Act is in conflict with EU law.⁷⁸ The Supreme Court's decision was based on a preliminary ruling of the CJEU requested by the Supreme Court in the same case.⁷⁹ The decision triggered amendments to the Code of Criminal Procedure, which as of 2022 requires judicial authorisation for requesting communications data from service providers for the purpose of criminal proceedings, however, the Electronic Communications Act remains unchanged. The action plan of the Ministry of Justice does not include plans to amend the Electronic Communications Act.⁸⁰

Fostering a rule of law culture

Contribution of civil society and other non-governmental actors

The Estonian Human Rights Centre contributes to fostering a rule of law culture through strategic litigation – by offering legal aid to people whose cases are of strategic significance, with the aim to influence the quality of law and its implementation.⁸¹ A strategic litigation case, concerning access to information, freedom of speech, and protection of private and family life of asylum seekers in a detention centre, recently reached a successful end. According to the internal rules of the detention centre, all detainees (asylum seekers and returnees) used to be subject to a ban on using mobile phones and the internet. A detained asylum seeker approached the Estonian Human Rights Centre, after requesting access to the internet and a mobile phone in the detention centre and being refused. The Estonian Human Rights Centre, on behalf of the asylum seeker, turned to the Administrative Court. The latter upheld the complaint and referred the case to the Supreme Court for constitutional review. On 20 June 2023, the Supreme Court declared the provision of the internal rules of the detention

77 Riigi Teataja, Electronic Communications Act (*Elektroonilise side seadus*), § 111¹, 8 December 2004.

78 Supreme Court (*Riigikohus*), Case No 1-16-6179, 18 June 2021.

79 Court of Justice of the European Union, Case C-746/18, 2 March 2021.

80 Ministry of Justice, Strateegilised alusdokumendid.

81 Estonian Human Rights Centre (*Eesti Inimõiguste Keskus*), Strategic litigation.

centre which prohibited mobile phones to be in conflict with the Constitution and therefore invalid.⁸²

Another way civil society has contributed to fostering a rule of law culture has been by helping voters make educated choices in the elections by publishing analyses of election programmes of political parties. Before the 2023 parliamentary elections, various advocacy organisations compiled such analyses, covering topics such as human rights,⁸³ equal treatment and gender equality,⁸⁴ LGBT+ rights,⁸⁵ children's rights,⁸⁶ mental health,⁸⁷ green thinking,⁸⁸ and animal rights.⁸⁹

82 Supreme Court of Estonia (*Riigikohus*), Judgment of the Constitutional Review Chamber in case no. 5-23-16, 20 June 2023.

83 Estonian Human Rights Centre (*Eesti Inimõiguste Keskus*), Valimislubaduste analüüs 2023, 15 February 2023.

84 Feministeerium, Keda valida? Pedagoogiline valgusfoor, 9 February 2023.

85 Estonian LGBT Association (*Eesti LGBT Ühing*), LGBT+ valimiskompass, 20 February 2023.

86 Estonian Union for Child Welfare (*Lastekaitse Liit*), Erakondade valmisprogrammide analüüs 2023.

87 Peaasi.ee, Vaimse tervise poliitika Eesti valimisprogrammides AD 2023.

88 Estonian Roundtable for Development Cooperation (*Arengukoostöö Ümarlaud*), Rohekompass.

89 Loomus, Loomuse valimiskompassi analüüs, 11 February 2023.

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Estonian Human Rights Centre

The Estonian Human Rights Centre is an independent non-governmental human rights advocacy organisation. EHRC develops its activities according to the needs of the society. Our focus is currently on the advancement of equal treatment of minority groups and diversity & inclusion and the human rights of asylum seekers and refugees.

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The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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