Estonia 2024

Information from: The Chancellor of Justice

Follow-up to last year’s rule of law recommendations

State authorities' follow-up to regional actors’ recommendations on rule of law

In the European Commission’s 2023 EU Rule of Law report, two recommendations were highlighted for Estonia. One of them encouraged Estonia to advance efforts to ensure the consistent and effective implementation of the right of access to information, with consideration to European standards on access to official documents. The other recommendation focused on establishing an enforcement mechanism for guidelines concerning conflicts of interest.

In mid-October, the Ministry of Justice dispatched letter to various ministries and the Government Office, seeking input on potential revisions to the Public Information Act to assess the necessity for changes (see also the news “Justice ministry sounding out stakeholders on classified information rules change”). The letter was based on the goal agreed in the Action Program of the Government of the Republic to submit an analysis and possible proposals regarding the implementation of the Public Information Act by March 2024.

However, responses gathered by mid-November indicated a lack of interest among the agencies in enhancing the transparency of their activities. The majority of ministries provided explicit recommendations to restrict public access to information and broaden the scope for classifying documents from concerned parties (see, e.g., the news “Estonian ministries would like to restrict public access to many documents”). The responses from the ministries drew intense criticism from the media, the Secretary of State, as well as experts, civil society representatives and researchers. Also, the Chancellor of Justice has repeatedly emphasised that public availability of public information should be the rule and classifying it as for internal use only, should only happen in exceptional circumstances.

As stated by the Ministry of Justice, the engagement of ministries in examining the practical implementation and challenges of the Public Information Act constitutes just the initial phase of the analysis and does not mean that the wishes of the ministries will become law. The plan is to include all key stakeholders in subsequent discussions, including representatives from the media, universities, and various interest groups. Following the completion of

the analysis, a decision will be made on whether and how the Act will be modified. This decision is anticipated for the spring of 2024. See also the news "Ministry: Suggestions for increased confidentiality won't be directly incorporated into the bill.".

The Chancellor of Justice remains vigilant in monitoring developments concerning the Public Information Act.

With regard to the second recommendation, the Chancellor of Justice lacks information regarding the measures taken by the state to strengthen enforcement mechanisms for guidelines related to conflicts of interest. In Estonia, the Ministry of Justice is responsible for fighting and preventing corruption in cooperation with the police and other agencies and manages the pertinent information.

NHRI’s follow-up actions supporting implementation of regional actors’ recommendations

The Chancellor of Justice ensures the respect for the rule of law by monitoring societal developments and addressing petitions from individuals. The broad mandate of the institution enables an intervention when legislation conflicts with the Constitution or when the state unjustly restricts fundamental rights. Additionally, the Chancellor oversees authorities' adherence to good administration principles in their interactions with the public.

During 2023, the Chancellor of Justice submitted 22 proposals and memorandums to the Riigikogu, ministries, and local governments, urging them to align legislation with the Estonian Constitution or initiate new legislative measures. The latter concerned, for example, the Chancellor of Justice's proposal to the former Minister of Health and Labour to establish legal regulations concerning patient restraint, as the existing regulations are insufficient and unclear. This problem has emerged during the Chancellor of Justice's inspection visits to health institutions, with medical professionals also raising concerns about the matter. Half of the proposals presented by the Chancellor of Justice have been implemented, with the rest still in progress.

The Chancellor did not submit any new requests to the Supreme Court for constitutional analysis in this reporting year but provided 13 opinions during ongoing constitutional review proceedings. These opinions covered various topics, including residence permit issuance, forensic psychology examination fees, police officers' pensions, nursing home expenses, and nature conservation property restrictions.

Besides, the Chancellor of Justice made 61 recommendations to the state and local authorities to adhere to the principles of legality and good administration. While generally acknowledged and implemented by the authorities, some

recommendations requiring substantial reforms or additional resources await effective follow-up. For instance, following inspection visits to open prisons, the Chancellor of Justice observed and highlighted in the recommendation to the Ministry of Justice and the prisons that the severely restricted access to information and communication technology for inmates in open prisons hinders their reintegration into society. The Chancellor added that addressing this issue necessitates a systematic and comprehensive approach, it is not only a matter of law implementation practice. In response to the recommendation, the Ministry of Justice formulated amendments to the Imprisonment Act and other relevant laws, which were subsequently submitted to the Riigikogu for consideration.

Some matters brought to the attention of the Chancellor are being resolved in the course of the Institution's internal proceedings. In the previous year, a total of 38 such cases were reported. If an institution promptly adjusts its practices or rectifies unconstitutional provisions following the Chancellor of Justice's request for clarification or remarks, the proceedings have been considered concluded without formal proposals or recommendations.

The Chancellor of Justice also responded to inquiries from members of the Riigikogu regarding the correlation between the adoption of a law and a vote of confidence, as well as the Constitutional limits to the Riigikogu's paralysis as organised by the opposition. Additionally, the Chancellor explained procedural restrictions under the Anti-corruption Act to local government officials and submitted a corresponding report to the Legal Affairs Committee of the Riigikogu. The Chancellor also drew the attention of the Riigikogu to the issues related to the supervision of political party financing.

On its own initiative, the Chancellor's Office checked the organisation of Riigikogu elections for residents of general care homes who wish to exercise their right to vote, focusing on the secrecy and verification of identity documents during the voting process. While no significant violations of electoral law that would have provided grounds to challenge the election results were identified, some observations were made and sent to the State Electoral Office.

Furthermore, in its annual report for 2022/2023, the Chancellor of Justice dedicated a chapter to matters concerning the rule of law. The opinions of the Chancellor of Justice are also published on its website.

State authorities' follow-up to NHRI's recommendations regarding rule of law

Unfortunately, not many positive developments can be pointed out in the areas of recommendations made by the Chancellor of Justice in the previous ENNHRI rule of law report.

The field of AI has seen positive efforts from both authorities and the media to educate the officials and the public about AI's risks and opportunities. However, domestic AI regulation is still pending, awaiting the adoption of the relevant European Union and Council of Europe legislations.

After the Riigikogu elections in the spring, the proposed legislation for the state budget, designed to enhance the independence of the budget application process for constitutional institutions from the Government of the Republic, was put on hold due to the obstruction conducted by the opposition in the Riigikogu. Fortunately, this did not hinder the Riigikogu from approving the allocation of extra financial resources to constitutional institutions in their 2024 budgets.

Setbacks occurred in issues related to the separation of powers and the involvement of interest groups in the legislative process. The new Government of the Republic initiated significant tax and family benefits reforms without prior debate in the Riigikogu and without the involvement of representatives of society. The adoption of the draft legislation, which was followed by a vote of confidence in the government, led to extreme obstruction by opposition parties in the Riigikogu, causing a months-long paralysis of parliamentary proceedings and the initiation of related legal disputes in the Supreme Court. The outright obstruction in Riigikogu did not end until the beginning of 2024.

In the previous rule of law report, the Chancellor of Justice discussed the wish of various politicians and political parties to restrict the voting rights of citizens of the Russian Federation and Belarus in local government council elections. The Chancellor of Justice underscored that Article 156(2) of the Estonian Constitution extends the right to participate in local elections to individuals permanently residing within the local authority's boundaries and not exclusively to Estonian citizens. The Prime Minister Kaja Kallas, answering the Riigikogu members' questions, stated that the coalition wants to proceed with this issue and is analysing the possibilities of amending the Constitution accordingly.

Estonia 2024

Information from: The Chancellor of Justice

Independence, effectiveness, resilience and establishment of NHRIs

International accreditation status and SCA

recommendations

The Chancellor of Justice was accredited with A-status in December 2020. The Subcommittee on Accreditation (SCA) welcomed the establishment of the Chancellor of Justice as an NHRI and commended its efforts to promote and protect human rights in Estonia since then.

Regarding the selection and appointment of the Chancellor of Justice, the Estonian NHRI clarified that, in practice, the Estonian President consults all political parties represented in the Parliament as well as the legal community before submitting a proposal to the Parliament. However, the SCA took the view that the process enshrined in the NHRI's enabling legislation was not sufficiently broad and transparent. The SCA encouraged the Chancellor of Justice to advocate for the formalization and application of a process that includes all requirements under the UN Paris Principles and SCA General Observations.

Further, the SCA noted that the legislation is silent on the number of times the Chancellor can be re-appointed, which leaves open the possibility of unlimited tenure. The Chancellor of Justice reports that, in the past, re-appointment has not occurred. Nevertheless, the SCA encouraged the NHRI to advocate for amendments to ensure that the term of office be limited to one reappointment.

Finally, the SCA encouraged the Estonian NHRI to advocate for an appropriate legislative amendment to make explicit its mandate to encourage ratification of and accession to regional and international human rights instruments. However, the SCA acknowledged that the Estonian NHRI interprets its mandate broadly and carries out activities in this regard in practice.

Follow-up to SCA Recommendations and relevant developments

Regarding the recommendation on selection and appointment of the Chancellor of Justice, it is necessary to emphasize that the President of the Republic in Estonia is an independent, non-political institution, actively involved in ensuring a non-political process for the selection and appointment of the Chancellor of Justice. The law mandates specific criteria that the Chancellor's candidate must possess, including the necessity of having a law degree, demonstrating high moral character, and being an experienced and recognized lawyer in society. The candidate's personal impartiality must be beyond doubt. These criteria must be taken into consideration by the President.

The President usually consults all parliamentary political parties, the legal community and civil society before proposing a candidate to the Riigikogu. Individuals are also allowed to submit their candidacy freely. For the

appointment as Chancellor of Justice, a candidate must secure a majority of votes in the Riigikogu. Since Estonia has a multi-party system necessitating the establishment of a coalition, the votes from several parliamentary parties and non-political agreement between the coalition and the opposition is necessary. Until now, candidates for the position of Chancellor of Justice have consistently garnered support from a wide range of political spectrum. Altering the process of appointing the Chancellor of Justice requires an amendment of the Constitution of Estonia. However, amending the Constitution is a highly exceptional decision that can be undertaken only in extraordinary circumstances.

Concerning the recommendation to promote the ratification of regional and international human rights instruments, the Chancellor of Justice interprets its mandate broadly and has provided practical recommendations accordingly. For instance, the Chancellor of Justice has suggested the State to ratify Optional Protocol 3 to the UN Convention on the Rights of the Child and has referenced international recommendations, general comments, and other human rights instruments in its opinions.

Regulatory framework

The national regulatory framework applicable to the Chancellor of Justice has not been changed since January 2023.

NHRI enabling and safe environment

The institution of the Chancellor of Justice has maintained a strong position in society, with its opinions and proposals being mostly well-regarded. Despite attempts by a right-wing populist party to diminish the role of the Chancellor of Justice and the courts in political debates, these statements have not found support from other political parties or wider society. The institution's strong position in society is underscored by research indicating the consistently high credibility of non-political constitutional institutions in Estonian society.

Additionally, towards the end of the preceding year, the Riigikogu decided to allocate extra financial resources to all constitutional institutions in their 2024 budgets, resulting in an €85,000 increase in the annual budget of the Chancellor of Justice.

NHRI’s recommendations to national and regional authorities

The Chancellor of Justice urges state authorities to revise the State Budget Act, aiming to enhance the procedural independence of constitutional institutions, including the Chancellor of Justice, from the Government of the Republic.

Estonia 2024

Information from: The Chancellor of Justice

Democracy - checks and balances, disinformation, and law-making processes

Separation of powers

Temporary obstruction in the Riigikogu

Following the parliamentary elections in the spring, a new coalition government assumed office and promptly initiated tax reforms and reduction of benefits for families with many children. As mentioned previously, the coalition implemented these changes in the Riigikogu through a vote of confidence in the government, thus bypassing discussions in the Riigikogu, with the interest groups and society. This approach sparked public outrage and active obstruction in the Riigikogu until the end of 2023, effectively halting the regular work of the Riigikogu for six months and attempting to prompt extraordinary elections.

As the Board of the Riigikogu started to employ organizational measures to overcome the obstruction, representatives of the Riigikogu opposition parties appealed to the Supreme Court. The court ruled that the rights of the applicants were not violated, affirming the authority of the Board of the Riigikogu to implement organizational measures to restore normal operations in case of obstruction. The Supreme Court also clarified that, not only excessive obstruction but also, the frequent connection between bills and a vote of confidence in the government can neutralize the Riigikogu.

Furthermore, the Chancellor of Justice had to clarify legal issues related to votes of confidence and obstruction multiple times, both in the media and to members of the Riigikogu and other applicants. The Chancellor of Justice condemned the non-inclusive approach adopted by the new coalition and other violations of the rules of procedure and explained that the paralysis of the Riigikogu's work threatens the constitutional order.

Financing and supervision of political parties

In connection with the general elections, the Chancellor of Justice also drew attention to the shortcomings of the supervision over financing of political parties and the failure of the previous Riigikogu and the Government to address enduring issues in this area. Efforts were made two years ago with the aim to establish a more effective basis for the Political Parties Financing

Surveillance Committee to oversee party financing around the 2023 Riigikogu elections. However, despite the potential benefits of fair competition and overall political party credibility, these initiatives stalled due to political deadlock.

Although funding oversight works effectively in regulated areas, parties exploit the so-called grey area for a competitive edge. A prominent example involves promoting a political worldview through non-partisan associations, capitalizing on activity patterns and preferences of voters. Though parties acknowledge these affiliated organizations and even complain about them, the law doesn't mandate their registration or supervision. Consequently, legally, partisan affiliates don't officially exist in Estonia. This situation deliberately creates unsolvable challenges for supervisory bodies, it not only undermines their credibility but also tarnishes the reputation of political parties and the broader functionality of Estonia's constitutional democracy.

Adoption of state budget

In addition to the aforementioned topics, the Chancellor of Justice has highlighted concerns related to the adoption of the state budget. According to § 115 of the Estonian Constitution, the Riigikogu is responsible to take decisions on state revenues and expenditures. The essential requirement to fulfil this constitutional duty is the Riigikogu's ability to ascertain for what expenses and for what purpose it authorizes the Government of the Republic to use the money. The Parliament must also have the opportunity to correct the budget before it is adopted and, later to check how the funds have been used. Unfortunately, the shift from a cost-based budget to an activity-based budget has complicated the general comprehension of the state's planned expenses, leading to a significant transfer of decision-making power over the state budget from the Riigikogu to ministers, which is not in accordance with the Constitution.

Access to information

While there has been extensive media discourse on the accessibility of public information in recent years, the Chancellor of Justice has received only a few petitions on the matter. This is likely because the Data Protection Inspectorate is the primary supervisory authority in the field.

Above all, the role of the Chancellor of Justice has been to clarify the obligations of authorities and the rights of individuals arising from the Public Information Act. In 2023, for instance, the Chancellor of Justice responded to a query from a member of the Riigikogu regarding the activities of the Ministry of Education and Research in restricting access to information.

Independence and effectiveness of independent institutions (other than NHRIs)

Data Protection Inspectorate

In the previous reporting period, several complaints were lodged with the Chancellor of Justice regarding the activities of the Data Protection Inspectorate. Issues included the Inspectorate's failure to respond to applications and unlawful extensions of deadlines. Since the Inspectorate justified the situation by a lack of resources, and the delay in responses indicated that this critical situation had been going on for a long time, the Chancellor urged the Inspectorate and the Ministry of Justice to collaboratively address the problem. As a positive result, the Inspectorate received additional money in its annual budget to increase salaries as well as recruit new staff.

Gender Equality and Equal Treatment Commissioner

In mid-February 2023, Christian Veske assumed office as the new Gender Equality and Equal Treatment Commissioner, having been selected through an open competition in December 2022. A notable feature of this selection process was the evaluation of the candidates by a diverse expert committee, comprising representatives from various target groups. Led by the Secretary-General of the Ministry of Social Affairs, the committee included members from the Estonian Chamber of Disabled People, strategic partners in the realms of equal treatment and gender equality, the Office of the Chancellor of Justice, the Top Civil Service Excellence Centre of the Government Office, and the Gender Equality Council of the Ministry of Social Affairs.

An encouraging trend worth noting is the consecutive increase of the budget allocated to the Gender Equality and Equal Treatment Commissioner in both 2023 and 2024. The Office of the Gender Equality and Equal Treatment Commissioner is staffed by six people.

Enabling environment for civil society and human rights defenders

There have been minimal instances of SLAPPs in Estonia, but a significant case emerged in 2023. The so-called “eastern transport” scandal unfolded in August when the Estonian Public Broadcasting reported that Stark Logistics, a transport company partially owned by Arvo Hallik (husband of the Prime Minister Kaja Kallas), continued its operations in Russia, contravening the principles of the Government's guideline. This guideline, introduced by Kallas in December 2022, prohibited Estonian state-owned enterprises from conducting business with Russia. It was also alleged that Kallas provided a €350,000 loan to her husband's holding company, Novaria Consult, which held a 24.8% stake in Stark Logistics.

In an article, published in the newspaper Eesti Päevaleht, Valdar Parve analysed the source of Kallas' loan to Hallik and questioned whether it aimed to profit from Russian business. The article presented a metaphorical pun suggesting Hallik's secret ownership in Kallas' business. In response to the article, Arvo Hallik filed €1,500 damages claim and received an apology along with the money.

Critics, including journalists and lawyers, strongly condemned the lawsuit, labelling it as a SLAPP case.

NHRI’s follow-up actions supporting implementation of regional actors’ recommendations

- The Chancellor of Justice advises authorities to uphold the principle of separation of powers and support robust independent institutions.
- Additionally, the Chancellor recommends the state and local authorities enhance collaboration with civil society and professional organizations in shaping policies and laws.
- Furthermore, the Chancellor suggests that the Riigikogu create a more effective foundation for the Political Parties Financing Surveillance Committee to oversee party financing.

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Information from: The Chancellor of Justice

Securitisation's impact on the rule of law and human rights

In its annual activity report for 2022/2023, the Chancellor of Justice expressed concern that the restriction of fundamental rights with the pretext of extraordinary circumstances has become more and more prevalent. Previously, this was driven by the terrorist threat, then economic collapse, followed by the pandemic. Currently it seems that the next major threat to human rights and constitutionality will indeed arise because of the noticeable wider public’s consent to violating the Constitution in the interests of security and safety. Even when a restriction is warranted, it is occasionally enforced without preceding public discussions or, at times, in contravention of the law.

One such example concerns the expansion of the Nursipalu military training area. The Russian aggression against Ukraine has prompted the necessity to

enlarge the military training area of Nursipalu in Võru County. The Chancellor clarified that, as per § 32(1) of the Constitution, the state can acquire land suitable for Defence Forces training, including through expropriation. However, even in situations of security risk and exceptional circumstances (§§ 3, 10, and 13 of the Constitution), adherence to the law is imperative when expanding a training area and acquiring land. If the state dispossesses someone of their home in the public interest, fair and constitutional compensation must be sufficient to obtain an equivalent dwelling.

The state neglected to utilize legal options for expanding the Nursipalu training area, such as initiating national spatial planning or planning proceedings. This failure resulted in a lack of clarity regarding the reasons, necessity, and legal basis for the expansion, leaving many people uninformed. Eventually, the Riigikogu helped to speed up the geographical expansion by amending the Weapons Act. This amendment introduced an exceptional provision allowing the Government, based on a risk assessment proposal by the Minister of Defence, to decide to establish or expand a training area without spatial planning proceedings. The amendment also brought the possibility for individuals to submit proposals and objections in open proceedings under the Administrative Procedure Act.

The Chancellor concluded that the provisions added to the Weapons Act align with the Constitution. Although the Planning Act doesn't apply to the exceptional establishment or expansion of a training area, individuals have now the opportunity to participate in proceedings, express their opinions, and contest the order in an administrative court.

NHRI’s actions to promote and protect human rights and rule of law in the context of national security and securitisation

Based on her mandate, the Chancellor of Justice has analysed the compliance of laws with the Constitution and the legality of the actions of authorities and made proposals and recommendations accordingly. The submission of reports and memoranda to the Riigikogu and other institutions and the work of expressing opinions in the media have also been an important part of the work of the Chancellor of Justice.

NHRI’s recommendations to national and regional authorities

The Chancellor of Justice emphasizes that the principles arising from the Constitution must be followed even in times of crises.

Estonia 2024

Information from: The Chancellor of Justice

Implementation of European Courts' judgments

Emphasizing a positive advancement in the enforcement of decisions from earlier reporting periods, one can highlight the Supreme Court's reliance on judgments from the European Court of Human Rights (ECtHR).

For instance, the Supreme Court, drawing on the ECtHR ruling in the Kalda v. Estonia case, orchestrated a shift in case law regarding a short meeting with the spouse in a prison without a glass partition (case no. 3-15-1781). The Supreme Court ruled that the prison's decisions were unlawful regarding the petitioner's requests for a short meeting with their spouse without a glass partition. The court also emphasized that the prison has discretion in reviewing such applications and that any denial must be fully justified.

The observations of the Chancellor of Justice have also proved that the respect for the rights of children of prisoners in domestic court rulings seems to have increased, possibly influenced by the Deltuva v. Lithuania case. In this case, the ECtHR asserted that decisions involving children must prioritize their best interests and that children have the right to maintain regular and ongoing contact with a parent in prison.

In the 2021 case of R.B v. Estonia, the ECtHR found that Estonia had violated Articles 3 and 8 of the Convention for failing to ensure the protection of children's rights during criminal proceedings. The ECtHR stressed the importance of safeguarding children's testimonies in both pre-trial and trial processes, emphasizing that child-friendly measures should not undermine the weight of their statements without compromising the right to a fair trial. The Court ascertained the state's failure to advise the 4-year-old child of her duty to tell the truth and her right not to testify against her father, leading to the exclusion of her testimony and father's acquittal of sexual abuse merely the strict application of procedural law. The ECtHR identified significant flaws in the state's response, citing a lack of consideration for the complainant's special vulnerability as a young child and the necessity to provide effective protection for her as an alleged victim of sexual crimes.

After the judgment of the ECtHR, the representative of the Chancellor of Justice alerted Ministry of Justice officials to the need to analyse the adequacy of protection for child victims in criminal proceedings. The Chancellor of Justice also made a similar recommendation to the state in the 2023 report submitted

to the UN Committee on the Rights of the Child. Yet, the required analysis remains outstanding. However, one positive aspect to highlight is that prosecutors affirmed in the Estonian Public Broadcasting program "Pealtnägija" in March 2023 a shift in their practices following the ECtHR decision. They assured that they now inform all children, regardless of age, about their duty to tell the truth and their right not to testify against close relatives. Nevertheless, they also acknowledged the challenge of explaining these rights to 3-4-year-old children and expressed uncertainty about whether children comprehend their meaning.

In 2023, the ECtHR issued three judgments that identified violations of the principles outlined in the Convention by Estonia.

In the case of Schmidt and Šmigol v. Estonia, applicants challenged the consecutive enforcement of disciplinary punishments resulting in prolonged periods of solitary confinement in Viru Prison, alleging a violation of Article 3 of the Convention. The Court found that the practice of using solitary confinement as a disciplinary measure for long and consecutive periods is incompatible with Art 3, save for exceptional circumstances and as a measure of last resort, and ruled in their favour.

The Tepljakov v. Estonia case revolves around the conditions of detention in the Pärnu Arrest House, where the applicant experienced varying periods of pre-trial detention between August 2016 and December 2018. The European Court of Human Rights found violations of both Article 3 and Article 8 of the Convention.

At the time of writing of this report, the judgments had not entered into force yet.

In the case of I.V. v. Estonia, the ECtHR unanimously found a violation of Article 8 of the Convention. The case involved a father's attempt to contest the adoption of his biological son by another man in Estonia, amidst paternity proceedings in Latvia. The Court concluded that the Estonian authorities had failed to strike a fair balance between the interests of the applicant and his son in both the adoption proceedings and subsequent attempts to annul the adoption. However, the ECtHR did not find it necessary to annul the adoption, recognizing that such a measure would not be in the best interests of the child. The Court also refrained from requiring any modifications to current laws.

Overall, it should be noted that Estonia faces no challenges in compensating damages. The greater difficulty lies in implementing court decisions when it involves the introduction of new regulations, administrative practices, large investments, or substantial reforms.

NHRI’s actions to support the implementation of

European Courts' judgments

In Estonia, different state institutions are responsible for handling the substantive implementation of the European Courts' judgements. The role of the Chancellor of Justice does not involve a direct overseeing the execution of the judgements by Estonian authorities. Nevertheless, through her actions, the Chancellor has played a part in their effective implementation, particularly by consistently citing court rulings in its proposals and recommendations to the authorities.

For instance, in the reporting year, the Chancellor of Justice referred to the decision of the ECtHR in the case of Jankovskis v. Lithuania in its opinion to the Supreme Court on the use of information and communication technology in prisons.

In the report of the visit to Tartu Prison, the Chancellor of Justice criticized the arrangement of short-term meetings where the inmate and their family and children are generally separated by glass booths. The Chancellor emphasized that such separation, without clear justification, has been consistently condemned by the European Court of Human Rights (e.g., the decision in Kalda v. Estonia, paragraphs 6-7).

The Chancellor of Justice has also cited judgments of the European Court of Human Rights in her recommendations and proposals, such as those regarding the quality of health treatment and strip searches in prisons, the prisoner's obligation to work, the reduction of family benefits, the holding of a public meeting and public event on property given for public use, and the legal recognition of same-sex partners, among other things.

NHRI's recommendations to national and regional authorities

Ensure effective substantive implementation of the rulings from the European Courts.

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Information from: The Chancellor of Justice

Other challenges to the rule of law and human rights

Electronic voting in elections

Based on the Supreme Court's judgment, which concerned the reliability of the electronic voting system, the Chancellor of Justice alerted the Riigikogu to the necessity of enhancing the regulation of electronic voting in elections. The legislator holds the responsibility to establish thorough regulation in election laws, addressing critical aspects of elections to maintain control and public trust. Organizational, procedural, and substantive law requirements are essential for achieving this goal. The current reliance on subordinate acts (e.g. regulations, orders, or guidelines) for defining electronic voting rules may pose challenges in obtaining a comprehensive understanding of these regulations.

Local government engagement with interest group

In 2023, the Chancellor of Justice primarily focused on local governments in relation to their engagement with interest groups.

For instance, when analysing a petition submitted to the Chancellor, it appeared that the Tartu Rural Municipal Council had failed to follow the public involvement requirements in place when organising a public event. The Chancellor explained to the Municipal Council that the authorization of a public event is an administrative procedure, requiring the involvement of individuals whose rights or duties may be affected. This discretionary decision must align with the limitations of authorization, the purpose of discretion, and general legal principles, considering relevant facts and legitimate interests. Therefore, the rural municipality government, in its decision-making, must consider the interests of residents living near the event and the related impacts on them. The Chancellor also addressed similar issues with the Haapsalu City Government.

Another issue concerned the involvement of the residents of the municipality in the preparation of the budget strategy. The Chancellor clarified to the Kuusalu Rural Municipality Government that, according to the Local Government Financial Management Act, budget strategy preparation, processing, adoption, and publication must adhere to the guidelines in § 372(5) of the Local Government Organisation Act. This provision explicitly mandates the organization of public debates by the rural municipality and city government during the formulation of budget strategies. While local authorities have the flexibility to determine the debate’s format, it's crucial to distinguish between the right to submit proposals and an actual public debate. The latter necessitates justifying objectives and choices in the budgetary strategy, along with an overview of expressed opinions. Participation and discussion in public debates extend to everyone, surpassing the submission of drafts to authorities and their affiliated agencies.

NHRI’s recommendations to national and regional authorities

The Chancellor of Justice emphasizes the importance for state authorities to:

- Maintain strong independent institutions and civil society.
- Guarantee the conformity of laws with the Constitution and international agreements.
- Safeguard the right to good administration.

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