Estonia 2025

Information from: The Chancellor of Justice

Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

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.

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 the legislative basis of the NHRI 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.

The SCA will consider the reaccreditation of the Estonian NHRI in its first session in March 2025.

Follow-up to international and European actors' recommendations on NHRIs and relevant developments

Follow-up to international and European actors' recommendations on NHRIs and relevant developments

In relation to the SCA's recommendation to promote the ratification of regional and international human rights instruments, the Chancellor of Justice continues to promote and reference international recommendations, general comments, and other human rights instruments in her opinions. Regarding the recommendation on selection and appointment, the Chancellor of Justice has thoroughly addressed the issue in the 2024 report.

In the ENNHRI's baseline report, a key area noted to need improvement was budgetary independence, which has been fully implemented.

In June 2024, amendments to the State Budget Act entered into force, guaranteeing the Chancellor of Justice (along other constitutional institutions) greater budgetary independence from the executive power, as provided in the State Budget Act, § 251(3) clause 12 and § 38(21). As of then, the budget of the Chancellor is discussed directly in the Parliament Financial Committee and no longer needs a prior review by the Government.

The Chancellor of Justice's 2025 budget was prepared for the first time using new principles. Despite the challenging economic situation and the Government of the Republic's plans to reduce the budgets of state institutions, this decision did not impact the budgets of constitutional institutions, including the Chancellor of Justice.

Regulatory framework

Regulatory framework

With regards to changes in the national regulatory framework applicable to the institution of the Chancellor of Justice, the Estonian NHRI reports that the most relevant change affecting the institution is, as mentioned above, the amendment to the State Budget Act.

NHRI enabling and safe space

NHRI enabling and safe space

The Chancellor of Justice has initiated a database of all the proposals and requests that the Chancellor has made to bring a norm into line with the Constitution. This list makes it easier for those concerned and everyone else to follow up on the implementation. All published opinions, positions, and

recommendations of the Chancellor of Justice are readily accessible in the opinions database.

The Chancellor of Justice is granted strong legal guarantees that require authorities and officials to respond to Chancellor's inquiries, consider recommendations, and cooperate in proceedings. Additionally, the Chancellor has the right to address the Riigikogu and the Government of the Republic, ensuring direct engagement in legislative and executive discussions. When necessary, the Chancellor also communicates proposals and recommendations publicly through the media to provide clarity and transparency.

Internally, the Office of the Chancellor of Justice conducts quarterly meetings to assess the progress of ongoing proceedings and the implementation of proposals and recommendations. The Chancellor believes this structured approach has proven to be effective and well-founded.

In relation to the enjoyment of functional immunity by the leadership and staff of the Estonian NHRI and the presence of sufficient measures necessary to protect and support the NHRI, heads of institution and staff against threats and harassment and any other forms of intimidation (including SLAPP actions), the Chancellor reports that measures are in place. In fact, existence and independence of the institution is enshrined in the Constitution chapter 12 and the Chancellor of Justice Act §§ 8-11. The Chancellor of Justice can be removed from office only by a court judgment (§ 140 subsection 2 of the Constitution). The Chancellor of Justice can be prosecuted under criminal law only on the proposal of the President of the Republic, and with the consent of the majority of all members of the Riigikogu (§ 145 of the Constitution).

Furthermore, attacks against the Chancellor of Justice are punishable under the Penal Code § 244. Violence, insult and defamation against staff of the Chancellor of Justice (as for any representative of state authority), is punishable under the Penal Code §-s 274, 275, 2751.

NHRI's recommendations to national authorities

NHRI's recommendations to national authorities

The Chancellor of Justice recommends continuing guaranteeing the office sufficient and stable funds to fulfil all its functions.

Estonia 2025

Information from: The Chancellor of Justice

Human rights defenders and civil society space

Laws and measures negatively impacting civil society and Human Rights Defenders

Laws and measures negatively impacting civil society and Human Rights Defenders

The Estonian NHRI notes that there has been evidence of practices creating barriers in access to information and law and policymaking processes.

In fact, a recent analysis by the Ministry of Justice and Digital Affairs reveals that public information is difficult to find in the document registers. There is also malpractice of not issuing public information if it is in the same document with information with restricted access. Based on the analysis, a decision will be made on whether and how the Public Information Act will be modified. In the analysis it is recommended to improve legal clarity, instructions for the information holders and search from document registers. Also, grounds for restricting access to information needs concretizing.

The Estonian advocacy organizations are usually happy to provide their opinion in the drafting process, if the question is narrow and clear, and there's a reasonable amount of time to respond. However, the Chancellor of Justice has received complaints about very short deadlines and extensive, confusing materials in the consultation process. This is especially problematic when people fail to differentiate between the legislative proposal and the actual draft act. Then, the process becomes time-consuming, with the materials constantly changing, leaving people frustrated that their perspectives were not considered or understood.

The Chancellor has expressed the opinion that in cases where it is necessary to correct an error in a law or to solve a problem that has arisen, drawing up a legislative proposal could be replaced by preparing a clearly worded small-scale draft and explanatory memorandum. In this way, those affected by the amendment can be given sufficient time to put forward concrete proposals to improve the draft. This would save time for everyone concerned.

In relation to the provision of specific support to women human rights defenders (WHRDs) or LGBTQ+ human rights defenders, the Estonian NHRI provides that there are human rights defenders who promote gender equality and LGBTQ+ rights among the members of the Advisory Committee on Human Rights established by the Chancellor of Justice.

In May 2024, the Advisory Committee addressed the issue of sexual violence and touched upon the so-called consent law, which seeks to change the definition of sexual violence. Unlike the current coercion and violence-based

approach, the consent-based definition of rape bases on the assumption that rape is any type of sexual intercourse against person's will. At the meeting, the Praxis report „Seksuaalvägivalla kohtueelne uurimine“ (Pre-trial investigation of sexual violence) was examined, as was the analysis commissioned by the Ministry of Justice, titled „Seksuaalse enesemääramise vastaste süütegude koosseisude vastavusest Euroopa Nõukogu Istanbuli konventsioonile“ (On compliance of the statutory definitions of offences against sexual self-determination with the Istanbul Convention of the Council of Europe).

See also subchapter on the committee in the 2024 annual report of the Chancellor of Justice.

The Chancellor of Justice has also received information that civil society organisations face some financing concerns in relation to public funding. Ministries are supporting NGOs of particular policy areas through strategic partnerships that are formed usually for three-year periods. However, due to delayed partnership calls, there may be financing gaps that can jeopardise the functioning of especially smaller organisations.

Limitations to actions of civil society organisations

Chancellor of Justice reiterates that the provisions regulating prohibited donations to political parties may excessively restrict the freedom of action of non-governmental organisations, as also indicated in the 2024 report (page 12).

The question arose again in this reporting period in relation to one among the dozens of questions submitted to the Political Parties Financing Surveillance Committee. The case of the Liberal Citizen Foundation (SALK) stood out due to its exceptional nature and the high level of public attention.

SALK is an organisation that stands for the open society, sustainable environment, minority rights, solidarity and free media to counterbalance anti-rights tendencies in the society. Before 2023 Riigikogu elections, the organisation was offering political parties and candidates data and tools in support of arguments based on human rights, facts and research.

After the 2023 Riigikogu elections, the attention of the Political Parties Financing Surveillance Committee was drawn to the allegation that SALK had made a prohibited donation to some political parties by allowing them to get acquainted free of charge with the data of studies and analyses conducted by the foundation.

By July 2024, the Surveillance Committee had calculated the amount of the alleged prohibited donation based on SALK’s financial reports and overviews of the cost of specific surveys and sent a precept to four political parties to refund that amount. Two of the political parties that received the claim for a refund

challenged the Surveillance Committee's decision.

The Chair of the Surveillance Committee commented on the Committee's decision: political parties should think more carefully about accepting services from legal persons that can be measured in money. The head of SALK, however, felt that the Political Parties Act should be updated and ways in which the non-governmental sector can have a say in politics should be formulated.

Inclusion of civil society organisations in consultation mechanisms

The strategic planning framework is derived from §§ 19 and 20 of the State Budget Act, which outline the general principles and types of strategic development documents. This framework is further supplemented by the 2019 Government of the Republic Regulation No. 117, "Procedure for the Preparation, Implementation, Reporting, Evaluation, and Amendment of the Sector Development Plan and Programme." Under this regulation, the responsible minister must establish a steering committee for the sector development plan, which includes, among others, representatives of interest groups (including civil society organisations).

The requirement for stakeholder inclusion is also outlined in the Government of the Republic Regulation No. 180 of 22.12.2011, "Rules for Good Legislative Practice and Legislative Drafting," as well as in the Riigikogu Rules of Procedure and Internal Rules Act.

To further support stakeholder inclusion, both the Government Office and civil society representatives have developed best practices for effective engagement.

NHRI's activities to support civil society space and Human Rights Defenders (HRDs)

NHRI's activities to support civil society space and Human Rights Defenders (HRDs)

Civil society organisations frequently bring applications to the Chancellor of Justice on possible breaches of human rights by public authorities. Consequent recommendations issued by the Chancellor benefit the groups for whose interests the organisations stand for. For example, the Chancellor of Justice has cooperated with organisations representing people with disabilities to promote accessibility and to evaluate need for motor vehicle tax exemptions.

The Chancellor of Justice sought advice from the members of the Advisory Committee on Human Rights also in relation to equal treatment and data protection, patient and environmental law.

Together with the child human rights defenders, the Chancellor's Office

translated into Estonian the summary of General Comment No 26 of the UN Committee on the Rights of the Child. This summary is prepared for children and deals with the impact of climate change on the rights of the child.

NHRI's activities to protect civil society space and human rights defenders (HRDs)

The Chancellor of Justice engages in various activities to protect civil society space and HRDs, these include capacity building, complaints handling, issuing recommendations and opinions, providing institutional protection to human rights defenders and by undertaking additional mandates.

In relation to the Chancellor's mandates as NHRI, ombudsman for children and NMM for the CPRD, the Office of the Chancellor of Justice has focal points towards whom defenders of human rights, rights of the child or rights of people with disabilities can turn to.

The Chancellor works towards capacity building through consultations and meetings with the Advisory Committee on Human Rights and civil society organisations at large.

Furthermore, the Chancellor of Justice actively participates in the work of international organisations and networks uniting chancellors of justice, ombudspersons and national human rights institutions around the world. For example, the Chancellor met with representatives from the Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (OSCE) to discuss the right to hold peaceful public assemblies. OSCE has prepared a report on the matter which is not yet public.

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

- The Chancellor of Justice recommends state and local authorities to engage meaningfully and timely with the civil society organisations in the policy- and law-making process. In this regard, the Chancellor recommends issuing clearly worded small-scale draft and explanatory memorandum for a change in law rather than issuing a full legislative proposal if it is necessary to correct an error in a law or to solve a problem that has arisen. This would allow CSOs to timely engage through concrete proposals.
- The Chancellor suggests guaranteeing that public funding of civil society organisations is organised in a predictable and equitable manner.

- The Chancellor advises to give due attention to the the freedom of action of non-governmental organisations when regulating the supervision of financing of political parties.
- The Chancellor of Justice recommends European Actors to engage meaningfully with civil society organisations and human rights defenders and to consider responsibly the input of the civil society organisations when preparing different international reports and communicating with state governments.

Estonia 2025

Information from: The Chancellor of Justice

Functioning of justice systems

Access to legal aid

As a rule, everyone’s right of recourse to the courts in case of violation of their rights and freedoms is indeed guaranteed. However, there is room for improvement on some issues.

The Estonian Bar Association assesses that the workload of state legal aid providers is excessive and there is a need to widen the pool of attorneys willing to offer quality state legal aid. The Estonian Human Rights Centre is of the opinion that the state's legal aid system requires reform to ensure the right to a fair trial and the right to defence.

Timely and effective execution of national courts’ judgments

Courts have awarded compensation for non-pecuniary damage from the Estonian State when despite court judgment a parent could not communicate with their child (see also another case). The Estonian state has concluded in the framework of the European Court of Human Rights proceedings an agreement with the parent, recognizing the violation of the parent's right concerning a custody and contact dispute, and paying compensation to the parent.

In 2024, the Chancellor of Justice proposed to the Minister of Justice and Digital Affairs, and to the Minister of Social Protection to analyze whether it would be necessary to supplement the Code of Enforcement Procedure in such a way that the duties and responsibilities of the bailiff and child protection worker are clearer. The Chancellor of Justice and the Estonian Chamber of Enforcement Agents and Trustees in Bankruptcy also discussed over the possibilities to

accelerate enforcement of court rulings on contact rights between a child and a parent.

Under the Courts Act, alongside the chairs of the courts and the Supreme Court en banc, the Chancellor of Justice is the only institution outside the court system that may initiate disciplinary proceedings in respect of a judge. If the Chancellor of Justice determines that a disciplinary violation may have occurred, she will submit the case materials to the disciplinary chamber operating under the Supreme Court for consideration. The final decision in the case is made by the disciplinary chamber.

The Chancellor does not assess substantive issues concerning administration of justice. She can only assess whether a judge has failed to fulfil their official duties or has behaved disreputably.

Every year there are cases where the Chancellor examines the work of judges more specifically in the information system of the courts in order to decide whether a reason exists to initiate disciplinary proceedings. On some occasions, the Chancellor also asked for an explanation from a judge and/or chair of the court. In 2024, the Chancellor did not find reason to initiate disciplinary proceedings in respect of a judge in any of the cases reviewed. See also subchapter on courts in the annual report about the activities of the Chancellor of Justice.

Implementation by state authorities of European Courts' judgments:

In 2024, the ECtHR issued no judgments that identified violations of the principles outlined in the Convention by Estonia. There were four Committee decisions declaring applications against Estonia inadmissible (Lukk v. Estonia, Oolo and others v. Estonia, Noël v. Estonia and Abo v. Estonia).

An action plan in the case I.V. v. Estonia was submitted on 16/10/2024. The case concerns the lack of diligence in the adoption proceedings in 2018 leading to an unsuccessful attempt in 2021 by a Latvian national to obtain the annulment of an Estonian court decision by which his biological son was adopted by the husband of the mother (violation of Article 8).

ECtHR summarises the action plan as follows:

Individual measures: The just satisfaction awarded by the Court was paid in full and on time. On 3 July 2024, the Supreme Court granted the applicant's request to review earlier decisions in the domestic proceedings and sent the case to the Circuit Court for a new hearing and gave instructions about how to proceed with examining the case in the light of the Court's judgment. These proceedings are currently pending.

General measures: The authorities consider that raising awareness on the

problem revealed by this judgment and the direct effect of the Court's caselaw into Estonian law are sufficient measures to prevent similar violations in the future. Therefore, the judgment was translated into Estonian and published in the official gazette and widely disseminated among to the authorities directly concerned.

NHRI actions to support implementation of the European Courts' judgments

The Chancellor of Justice consistently cites European Courts' rulings in her proposals and recommendations to the authorities, as well as in her opinions to the Supreme Court on matters of constitutional supervision. The Chancellor's Office notes court cases in the numerous meetings with the wider public (f. ex. older persons, students, pupils) but also in trainings for the specialists (f. ex. child protection workers, judicial clerks, healthcare professionals). The court cases were under discussion also at the seminar that the Chancellor organised for human rights educators on International Human Rights Day 2024.

For instance, in the reporting year, the Chancellor of Justice referred to the judgments of the European Court in its opinions to the Supreme Court on the right to appeal a refusal of a long-term visa. In the Supreme Court case over language of instruction in public elementary school, the Chancellor of Justice relied in its opinion among other on the ECtHR case of Valiullina and others v. Latvia.

In the report on the visit to Viru Prison, the Chancellor of Justice referred to the case of Piechowicz v. Poland in relation to the application of a special regime for dangerous detainees. Additionally, the case of Jeret v. Estonia was cited to highlight that security measures, including restraints, must be applied based on an individual risk assessment.

The Chancellor of Justice has also cited the European Court of Human Rights case law in relation to involuntary psychiatric treatment, observance of religious customs in prison, access to the origin data of adoptees, importance of internet for the older persons, among other things.

Measures taken to follow-up on the recommendations concerning justice systems, issued by European actors

In the 2024 EU Rule of Law Report, there was one recommendation related to the justice system in Estonia. It encourages Estonia to continue efforts to reform the Council for the Administration of Courts, taking into account European Standards on councils for the judiciary.

The draft reforming the Council was submitted to the Government in February 2025. The draft envisages that the Council for the Administration and Development of Courts would be comprised of six judges from all levels, two

members of Riigikogu (Parliament), one representative from each the Bar Association, the Chancellor of Justice and Minister of Justice and Digital Affairs. Judges to the council are currently and would according to the draft amendments also be elected by court en banc. The draft is available in the draft law information system.

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities
The Chancellor of Justice recommends committing in earnest to the implementation the European Courts' judgments and make the follow-up more easily and timely accessible to the wider society.

Estonia 2025

Information from: The Chancellor of Justice

Media freedom, pluralism and safety of journalists

With regards to the challenges affecting media freedom, as already mentioned above in the section on practices negatively affecting civil society space, access to public interest information and documents remains the biggest challenge for media outlets.

The recommendation to Estonia in the previous European Commission Rule of Law report on media freedom focused on advancing with the efforts to ensure consistent and effective implementation of the right of access to information taking into account European standards on access to official documents.

Ministry of Justice and Digital Affairs has been seeking input on potential revisions to the Public Information Act. In 2024, all key stakeholders were included in discussions, including representatives from the media, universities, and various interest groups. A working group has completed an analysis, based on which a decision will be made on whether and how the Act will be modified.

Estonia 2025

Information from: The Chancellor of Justice

Other challenges to the rule of law and human rights

Riigikogu is currently processing an amendment to the Constitution intending to revoke the right to vote in local government council elections for permanent residents of Estonia who are not citizens of EU or NATO member states. The aim is claimed to be linked to national security.

The amendment may also affect the stateless persons living in Estonia and deprive them of the right to vote in local elections. There is a considerable number of stateless persons, who are residents in, but not citizens of, Estonia, nor are they citizens of any other country.

Initially, an attempt was made to suspend the local voting rights of Russian and Belarusian citizens permanently residing in Estonia with the electoral law. The Chancellor of Justice emphasized that § 156(2) of the Estonian Constitution extends the right to participate in local elections to persons permanently residing within the municipality's boundaries, and restricting this right through the electoral law is contrary to the Constitution. Also, the transcripts of the Constitutional Assembly's meetings reveal a clear position that as the local government is meant to solve local matters, all permanent residents should have the right to vote in local elections (see also news brief).

Hence, as Estonian local government council is meant to solve local problems, it is not part of the executive state power. The right to vote in these elections does not affect national security. The status of the permanent resident is granted only to those persons who have lawfully lived in Estonia for a long time, who are not a threat to public order or security, and have legal income here, and only people of that status have the right to vote in municipal council elections.

The Chancellor of Justice has also explained that most EU member states allow permanent residents to vote in local government elections or permit dual citizenship to expand and promote human rights. She has also noted that for the sake of social cohesion, it is reasonable to allow people to participate in decision-making rather than exclude them. It is important that as many permanent residents of Estonia as possible feel a sense of belonging to society.

With regards to persisting structural human rights issues identified which affect

the national rule of law environment, the Chancellor of Justice has noticed an increasing tendency to shift significant value-based and content-related decisions - critical to safeguarding fundamental rights - away from the established frameworks of laws and government regulations. Instead, these decisions are being addressed through general administrative orders. These orders fall outside the Chancellor of Justice's oversight and taking them to administrative court is time-consuming and resource-intensive. Additionally, first-instance administrative court decisions on the same issue or order may vary significantly. Using administrative acts to regulate broad fundamental rights issues could be a serious problem for protecting fundamental rights effectively.

Furthermore, the principle of legality is also tested by official guidelines, recommendations and action plans, as well as, for example, by a coalition agreement. Although following these is not mandatory, and formally they should not play any role, at times real life tends to prove otherwise. In practice, guidelines sometimes have greater significance than a legal norm. Such guidelines are not subject to oversight and lack of control creates a risk of human rights violations.

The Chancellor's supervision of such guidelines and instructions of a general nature is limited to ombudsman proceedings. For example, the Chancellor of Justice can check whether guidelines comply with the principles of good administration. However, since guidelines are not formally a legislative act, it is not possible to initiate constitutional review proceedings.

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

- The Chancellor of Justice recommends to regard responsibly the principle of legality and regulate important human rights issues, including restrictions, obligations and prohibitions, in legislation with effective legal remedies.
- The Chancellor of Justice recommends avoiding securitisation to endanger the rule of law and protection of human rights.

Co-funded by the European Union