



Justiitsministeerium

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Siseministeeriumi vastused õigusriigi aruande küsimustele

Tulenevalt Justiitsministeeriumi 16. novembri 2023 sisendipalvest, edastab Siseministeerium vastused õigusriigi aruandluse küsimustiku küsimustele 21 ning 55-58. Vastused koostasid Siseministeeriumi EL ja välissuhete osakonna nõunik Katarina Budrik (katarina.budrik@siseministeerium.ee), korrakaitse- ja kriminaalpoliitika osakonna nõunik Ott Aarma (ott.aarma@siseministeerium.ee), kodakondsuspoliitika ja kodanikuühiskonna osakonna nõunik Marten Lauri (marten.lauri@siseministeerium.ee) ning sisejulgeolekupoliitika osakond (jupo@siseministeerium.ee).

Vastus küsimusele 21: „Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption“

A draft has been prepared by the Ministry of Interior to amend the PBGA, which, among other things, establishes rules to mitigate corruption, e.g.:

- To bring the regulation of the appointment and term of service of officers in management positions (from the level of head of division) on the same basis as the provisions for the appointment of other high-ranking police officers (e.g. prefects and deputy general directors).
- Regarding the head of the PBGB - due to his direct reporting to the director general of PBGB - an additional change in terms of appointment is appropriate, i.e. the amendment of clause 43 (1) 7 of PBGA in such a way that in the future the head of Internal Control Bureau of PBGB will be appointed by the Minister of the Interior on the proposal of the director general of PBGB.
- In addition, it is planned to introduce an amendment in the PBGA, according to which it would be possible to use, if necessary, surveillance information obtained within the framework of other criminal proceedings (i.e. evidence of discovery) during the recruitment of a person or, in the case of a person being in service, to assess suitability for police service and access to surveillance information.

The need for legislative changes became apparent in spring of 2023, when senior members of the PBGB – the Central Criminal Police Director General, the director of the Internal Control Bureau and the director of the Central Criminal Police Operations Office, along with the director

of the Customs Department of the Estonian Tax and Customs Board, were detained on suspicions of fraud and aiding fraud. More information is available [here](#) and [here](#).

In addition to the legislative changes, it is also planned to mitigate the risks of corruption by organizing the work of the subsidiary organization more precisely by the ministry, for example by providing as tasks for the PGBG to:

- a) to provide the Ministry of Interior (assigned competent officials), for the purpose of supervision, a permanent access to the notification channel of violations;
- b) to grant the competent authorities (competent officials of the Ministry of Interior and the Estonian Internal Security Service) a permanent access to the databases and information systems used by the Internal Control Bureau for the purpose of supervision;
- c) regularly provide an overview of complaints received against officers, initiated procedures, the course of the procedures and the results, and involve the Ministry of Interior regularly in the development and reporting process of the Internal Control Bureau's threat assessments and action plans.

Vastus küsimusele 55: „Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration and dissolution rules)“

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

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

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

The Network of County Development Centres (NCDC) is present in each of Estonia's 15 counties. Each county development centre has a dedicated consultant for CSO's. The NCDC's CSO consultants counsel and help non-governmental organisations to establish and develop their organisations, depending on the organisation's needs. The NCDC employs 18 CSO

consultants throughout Estonia. The provision of services is supported by the NFCS. Consultations take place in the following areas: 1) establishment and development of a non-governmental organisation; 2) writing, including amending of the Articles of Association of a non-governmental organisation; 3) growing operational capacity and inspiring leaders; 4) operating subsidies for non-governmental organisations; and 5) organisation management.

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

CSOs are regulated in Estonian legislation by the [Non-profit Associations Act](#) and [Foundations Act](#). In order to found a non-profit organisation in Estonia, it is necessary to: 1) conclude a memorandum of association which approves the articles of association and establishes the members of the management board (both documents must be presented in the Estonian language or as parallel texts); 2) submit an application for the registration of the organisation in the [business register](#). A step-by-step guide for establishing a non-profit organisation can be accessed on the [consulting portal for CSOs](#). The dissolution process consists of several stages and takes over two months to complete. A step-by-step guide for dissolving a non-profit organisation can be accessed on the [consulting portal for CSOs](#). CSOs can also book a consultation session with their county's CSO consultant to receive guidance for both processes.

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

Vastus küsimusele 56: „Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures for protection from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services.“

Currently, it is not expressly forbidden to use the police officer's uniform and distinguishing marks and the special features of an auxiliary police officer by a person who does not have the

right to do so, therefore - considering the current case law - positive law does not help to prevent the use of the aforementioned by a person who does not have the right to do so.

An amendment to the law (PBGA) has been drawn up, according to which, in the future, the permissible use of police officer uniforms and insignia, as well as the special features of auxiliary police officers, is only for the performance of service or work duties, and outside of that, use with the permission of the PBGB, for example, in a theatre performance or in a film. The main purpose of the above is - in addition to ensuring national security - to protect the police, including auxiliary police officers, from negative narratives and defamation campaigns.

More broadly speaking, a committee discussing questions regarding the cooperation between civil society and the government, has been established by the government since the adoption of EKAK in 2002. Half of the members represent civil society, and the other half are state representatives. The platform enables to raise issues regarding the effective operation of civil society organisations and rights defenders. The activities of the committee are public, meaning every meeting's minutes are made publicly available on the ministry's website.

On an operational level, [Consulting portal MTÜ abi](#) (NGO's Help), a roadmap for CSOs, helps to find quick answers to questions regarding the establishment of an CSO and guides through the complex world of funding opportunities. The portal is meant for all CSOs, the people who run them, and all those interested in the civil society. Furthermore, in every county there is a CSO consultant who offers free of charge advice from an idea to ending a CSO. These consultants also organise trainings for NGOs and their representatives.

For the purposes to react to any kind of criminal activities taken place online, incl through social media, we have [web-constables in police](#) who monitor social media sites and are also facilitators in communication with the owners of the sites in order to remove illegal or threatening content and also react when someone uses identity of the other user or harasses someone in online environments. Estonian law enforcement authorities are also a part of EU framework on oversight regarding protection of human rights. In this regard we would like to pay attention to the high level of public trust - [86 percent of Estonian residents trust the Estonian Police and Border Guard Board](#).

Vastus küsimusele 57: „Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)“

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

[Guidelines for the financing of CSOs](#) were developed in 2013 under the leadership of the Ministry of the Interior. The guidelines created the prerequisites for harmonising domestic financing practices and principles concerning CSOs at both the state and local government levels. In 2022, it was decided that the guidelines will be updated, and the process will begin in 2024.

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

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

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

Vastus küsimusele 58: „Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process (e.g. measures related to dialogue between authorities and civil society, participation of civil society in policy development and decision-making, consultation, dialogues, etc.)“

Before the new development plan was adopted, the Ministry of the Interior, responsible for civil society policy in Estonia, chose its new strategic partners in the field of civil society through a public call. As of April 2021, four strategic partners help the achieve the civil society development goals agreed in the Cohesive Estonia Development Plan 2021-2030: Network of Estonian Nonprofit Organisations in cooperation with County Development Centres, Social Enterprise Estonia and Social Innovation Lab. Since summer 2023, there are two additional strategic partners who focus on the implementation of community-based approach in 2023–2026: Estonian Village Movement Kodukant and The Association of Estonian Folk High Schools.

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

One of the outcomes of this process was the launch of the Citizen Initiative Portal rahvaalgatus.ee, which allows anyone 16 years of age or older to initiate a discussion or compile and send a collective proposal with at least 1000 digital signatures to the parliament of Estonia, and also to follow how the proposal is dealt with online. As of January 2024, there have been a total of 629 discussions and 458 initiatives launched through the portal of which 214 have been processed by the *Riigikogu*, Estonia's parliament. In addition, 23 initiatives have been delivered to the parliament on paper.

Information on the functioning of civil society in Estonia is also available [in a 2018 short summary form](#) on the status of NGOs, and also in the Report of the Conference of INGOs of the Council of Europe on Civil participation in the decision-making process. Next data collection regarding the functioning of civil society in Estonia is planned for 2024-2025.

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

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

Lugupidamisega

(allkirjastatud digitaalselt)

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