

Legal environment and space of civil society organisations in supporting fundamental rights

Estonia

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1 Five most significant civic space developments in 2020

1.1 Political campaigning

Restrictions on election-day campaigning and ban on outdoor political advertising lifted

The ban on outdoor political advertising, which came into effect in 2005, has been criticised by the Chancellor of Justice (*Õiguskantsler*)¹ and human rights organisations², both of whom have pointed out that such a ban excessively restricts the possibilities available to those participating in elections.

A change to the law came into effect on 13 January 2020 overturning the restrictions on election-day campaigning and the ban on outdoor political advertising. This change applies to parliamentary, local government and European Parliament elections alike. The ban on campaigning and advertising in polling places remains in place.³

1.2 Financing of civil society work

Ministry of Finance suspends payments in support of equality projects

In July 2020, the Ministry of Finance (*Rahandusministeerium*) suspended the financing via the State Shared Service Centre (*Riigi Tugiteenuste Keskus*) of projects run by NGOs promoting equal opportunities and gender equality. The funding originated from the revenue generated from gambling tax and was distributed by the Ministry of Social Affairs (*Sotsiaalministeerium*).⁴

As a consequence, the Estonian Women's Associations Roundtable's (*Eesti Naisteühenduste Ümarlaud*) project 'Working together for a more equal society', the Estonian Women's Studies and Resource Centre's (*Eesti Naisuurimus- ja Teabekeskus*) project 'The promotion of gender equality by the Women's Studies

¹ Estonia, Chancellor of Justice (*Õiguskantsler*), [Õiguskantsler edastas Riigikogule kirjaliku ettekande valimiskampaaniate rahastamise ning reklaami regulatsiooni ajakohasus ja põhiseaduspärasuse kohta](#), 13 September 2019.

² Rünne, E. (2019), [Human Rights in Estonia 2020: Right to free elections](#), Tallinn, Estonia, Estonian Human Rights Centre.

³ Estonia, Act Amending the European Parliament Election Act, Local Government Council Election Act, Riigikogu Election Act, Referendum Act and Penal Code (abolition of election campaign restriction and ban on outdoor advertising on election day) ([Euroopa Parlamendi valimise seaduse, kohaliku omavalitsuse volikogu valimise seaduse, Riigikogu valimise seaduse, rahvahääletuse seaduse ja karistusseadustiku muutmise seadus \(valimispäeval valimisagitatsiooni piirangu ja välireklaami keelu kaotamine\)](#)), 13 January 2020.

⁴ ERR (2020), [Finance ministry: Funding for promoting equality suspended](#), 13 July 2020.

and Resource Centre and its partners' and the Estonian Human Rights Centre's (*Eesti Inimõiguste Keskus*) project 'Equal opportunities in a cohesive society' saw their funding suspended on 10 July. In 2020, the Ministry of Social Affairs entered into two-year strategic partnership agreements with these organisations, in accordance with which support was paid to them on a quarterly basis.⁵

In justifying the suspension of the payments, the Ministry of Finance pointed to the fact that the Auditor General (*Riigikontroll*) had found in 2020 that projects promoting the protection of sexual minorities and gender equality were not on the list of areas of application foreseen by the Gambling Tax Act (*Hasartmängumaksu seadus*) and that another source should be found for further support of such projects.⁶

Minister of Social Affairs Tanel Kiik denounced the decree of the Minister of Finance as being politically motivated, saying that the previously supported organisations were justified in their expectation of receiving the funding.⁷ In its own responses, the Network of Estonian Non-profit Organisations (*Vabaühenduste Liit*) decried the suspension of payments to strategic partners of the Ministry of Social Affairs as party-political harassment and said that a legally binding interpretation could only be issued by a court, not the Ministry of Finance or the Auditor General.⁸ The Minister of Finance, Martin Helme, belongs to the Conservative People's Party of Estonia (EKRE), which has previously publicly criticised public funding to organisations promoting LGBT rights.⁹

The support payments were restored within a week, with the Ministry of Social Affairs deciding to make the payments itself rather than through the State Shared Service Centre, so that the Ministry of Finance would be unable to prevent the payments from being made.¹⁰

⁵ Estonia, Ministry of Social Affairs (*Sotsiaalministeerium*), [Hasartmängumaksu toetused](#).

⁶ Punamäe, S. (2020), '[Riigikontroll: hasartmängumaksu tulu ei jagatud õigesti](#)', *Postimees*, 7 February 2020.

⁷ ERR (2020), '[Kiik demands finance ministry stop unlawfully withholding funding to NGOs](#)', 16 July 2020.

⁸ Estonia, Network of Estonian Nonprofit Organisations (*Vabaühenduste Liit*), '[Ühenduste rahastuse peatamine on poliitiline kius](#)', 14 July 2020.

⁹ ERR (2020), '[EKRE: LGBT ühingu rahastamine hasartmängumaksust on ebaseaduslik](#)', 26 October 2019.

¹⁰ Estonia, Ministry of Social Affairs (*Sotsiaalministeerium*), '[Sotsiaalministeerium lõpetab Riigi Tugiteenuste Keskusega koostöö hasartmängumaksust toetatavate projektide korraldamisel](#)', 17 July 2020.

1.3 Emergency measures (including those related to COVID)

State support for non-profit organisations dwindles

In early April, the Ministry of Social Affairs (*Sotsiaalministeerium*) informed its non-profit partners of the risks accompanying the restrictions enacted to stop the spread of coronavirus, which had a significant impact on the amount of revenue earned from gambling tax and therefore on the activities funded from it.¹¹ During 2020, the ministry cancelled three application rounds for small-scale projects funded from gambling tax, since the state of emergency had led to the closure of casinos and gambling tax revenue was not accruing in the expected amount. The amount of support per project was set at a maximum of € 10,000, with the total budget for a single round of applications being € 100,000. Projects supporting both social field and the field of health went unfunded.¹²

Agreements and activities were reviewed with strategic and long-term non-profit partners, with areas of savings identified among activities that in any case were cancelled due to the COVID-19 crisis.¹³

1.4 Freedom of expression

EC infringement procedure against Estonia for failure to correctly criminalise hate speech

In 2020, the politicians in power continued using freedom of expression as a justification for their refusal to effectively combat hate speech, which contributes to creating a hostile environment for civil society organisations working with minority groups. The Estonian Penal Code includes a provision for "incitement to hatred", however, since the provision requires the existence of "danger to the life, health or property of a person", it is not effective in practice. For this reason, in October 2020, the European Commission started an infringement procedure against Estonia. According to the Commission, Estonia has not correctly criminalised hate speech nor provided for adequate penalties.¹⁴

In response to the announcement of the infringement proceedings, the Estonian Minister of Justice, Raivo Aeg, expressed that freedom of speech and media

¹¹ Estonia, Ministry of Social Affairs (*Sotsiaalministeerium*), '[Sotsiaalministeerium otsib strateegiliste partneritega võimalusi maandada kriisiga kaasnevaid mõjusid](#)', 18 April 2020.

¹² Estonia, Ministry of Social Affairs (*Sotsiaalministeerium*), '[Hasartmängumaksu toetused](#)'.

¹³ Estonia, Ministry of Social Affairs (*Sotsiaalministeerium*), Response to request for information, 10 January 2021.

¹⁴ European Commission (2020), '[October infringements package: key decisions](#)', 30 October 2020.

freedom cannot be attacked.¹⁵ The Minister of the Interior, Mart Helme, also stated that if the infringement procedure results in a fine on Estonia, Estonia will challenge it in court.¹⁶

On 19 October 2020, the oppositional Reform Party initiated a bill to criminalise hate speech.¹⁷ However, the bill was rejected by the Parliament (*Riigikogu*) at the first reading, coalition MPs expressed concern that the bill places excessive restrictions on freedom of expression. The Minister of Foreign Affairs Urmas Reinsalu noted on social media that the bill would be a “muzzle” for Estonian people.¹⁸ The bill was also criticised by mainstream media, with claims that civil society organisations, such as the Estonian Human Rights Centre and the Estonian LGBT Union, are lobbying for criminalising hate speech in order to put people with different views and political opinions behind bars.¹⁹

1.5 Negative narrative / Smear campaigns

Attacks against the Estonian LGBT Association

In the autumn of 2019, several attacks took place against the Estonian LGBT Association. Members and supporters of the Conservative People's Party of Estonia (EKRE) obstructed an LGBT Association's event in Pärnu²⁰ and organised a protest against a youth centre's events on the LGBT+ topic in Tartu.²¹ Furthermore, the Foundation for the Protection of Family and Tradition (*SA Perekonna ja Traditsioonide Kaitseks*) launched a petition campaign against the LGBT Association²², and the Institute of Social Studies (*Ühiskonnauuringute Instituut*) ordered a survey regarding the Association's funding.²³ According to the LGBT Association, a new tendency has arisen where one government party, EKRE, has taken it upon themselves to create an atmosphere of fear among the LGBT community and the civil society, and the coalition partners have not wanted to or

¹⁵ ERR (2020), '[Euroopa Komisjon käivitas Eesti suhtes kaks rikkumismenetlust](#)', 30 October 2020.

¹⁶ Sarv, H. (2020), '[Eestit ähvardab vihakõne kriminaliseerimata jätmise eest EL-i trahv](#)', ERR, 22 September 2020.

¹⁷ ERR (2020), '[Reformierakond esitas vaenukõne kriminaliseeriva eelnõu](#)', 19 October 2020.

¹⁸ ERR (2020), '[Reformierakonna vaenukõne eelnõu langes parlamendi menetlusest välja](#)', 16 December 2020.

¹⁹ Salu, M. (2020), '[Reformierakonna pikk samm vales suunas: vihakõne eelnõu mõjub sõnavabaduse reetmisena](#)', Eesti Ekspress, 18 November 2020.

²⁰ ERR (2019), '[EKRE members, supporters crash LGBT event in Pärnu](#)', 21 October 2019.

²¹ ERR (2019), '[EKRE protest in Tartu attracts LGBT+ supporters](#)', 1 November 2019.

²² Nagel, R., Raal, K. (2019), '[Varro Vooglaid alustas petitsioonikampaaniat LGBT ühingult toetuse võtmiseks: homoaktivistid mõjutasid tükki sugu vahetama](#)', Delfi, 10 October 2019.

²³ Institute of Social Studies (*Ühiskonnauuringute Instituut*) (2019), '[Koalitsiooni toetajad on LGBT Ühingu riikliku rahastamise lõpetamise osas üksmeelel, abordi riikliku rahastamise osas mitte](#)', 11 October 2019.

have not been able to change that.²⁴ In 2020, the LGBT Association has continued to receive angry and threatening phone calls and letters.²⁵

2 Example of promising practice

2.1 Return income tax can be donated in a simplified way

From 2020, the returns of income tax can be donated in a simplified way in the Tax and Customs Board (*Maksu- ja Tolliamet*) self-service environment *e-MTA* to the associations included in the list of associations entitled to income tax relief. Donations can be made to up to three recipients and no donation should be not less than € 1. The total amount of tax returns may be donated in whole or in part. In case of a partial donation, the individual may at the same time request the remainder to the bank account and/or leave it in their prepayment account.²⁶

For the year 2019, almost 747,000 income tax declarations were submitted to the Tax and Customs Board. Overpaid income tax was refunded in the amount of € 187 million, of which almost € 136,000 was donated to different associations.²⁷

²⁴ Kala, A. (2019), [Human Rights in Estonia 2020: The situation of LGBT persons](#), Tallinn, Estonia, Estonian Human Rights Centre.

²⁵ Estonia, Estonian LGBT Association (*Eesti LGBT Ühing*), Response to request for information, 13 January 2021.

²⁶ Estonia, Tax and Customs Board (*Maksu- ja Tolliamet*), [Submission income tax returns 2019](#).

²⁷ Estonia, Tax and Customs Board (*Maksu- ja Tolliamet*), [Tänavu esitati 747 000 tuludeklaratsiooni](#), 22 July 2020.