

Franel National contribution to the Fundamental Rights Report 2024

Estonia

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1. Impact of the cost-of-living crisis and rising poverty in the EU

1.1. Legal measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

Amendments in subsistence benefit system reported by the Ministry of Social Affairs are the following.

- State Budget Act (*Riigieelarve seadus*)¹: Starting from 1 June 2022, the subsistence level for a person living alone or for the first family member of the family increased to 200 euros per month (previously 150 €); subsistence level for each minor child (under 18 years of age) increased to 240 euros per month (previously 180€); and to 160 euros per month (previously 120€) per the second and each following family member. (Amendment was made to State Budget Act, because subsistence level for a person living alone or to the first member of a family is established by the state budget). See: <https://www.riigiteataja.ee/en/eli/509122022002/consolide>
- Social Welfare Act (*Sotsiaalhoolekande seadus*)²: Starting from July 1, 2022, people who have fallen into a difficult economic situation will be able to apply, along with an application for subsistence benefit, also for compensation of payments aimed at repaying a home loan (incl. the loan interest and the mandatory home insurance Premium). Home loan repayment is taken into account if:

the applicant lives in a dwelling acquired with a loan and this is reflected in the population register;
 the applicant or a member of his/her family has taken out a home loan;
 in the case of a home loan, the opportunity to receive a payment holiday has been used, or the applicant (or a family member) provides an explanation from the bank why it is not possible to use the payment holiday;

¹ Estonia, the State Budget Act (in force):

<https://www.riigiteataja.ee/akt/122122023012?leiaKehtiv> We note that the legislative act's current version has no translation into English

² Estonia, the Social Welfare Act (in force):

<https://www.riigiteataja.ee/en/eli/519012024004/consolide>

the applicant does not have loan Insurance for the prevention of solvency problems, or this insurance does not fully cover the repayment of loan obligations;

The loan repayments are taken into account for a period of up to six months during a calendar year. See:

<https://www.riigiteataja.ee/en/eli/531072023003/consolide>

- Social Welfare Act: Starting from May 2022, obligation to provide support services (incl. debt counselling services) to the recipient of subsistence benefit. More precisely, a local authority shall ensure:

- 1) availability of debt counselling service to a subsistence benefit applicant with regard to whom enforcement proceedings have been initiated;
- 2) support services to a recipient of subsistence benefit in order to improve coping and financial skills of the person.

In both situations, local authorities make available free of charge counselling by professional financial experts who assist the applicants or recipients to review periodically their financial resources and plan better their usage.

There are no specific legislative amendments in 2023 regarding the energy prices (including gas and heating), neither related to social allowance for pensioners and children and other vulnerable groups. There are some assessments of the measures related to the impact of support measures, for instance the National Institute for Health Development (*Tervise Arengu Instituut*) published an analysis in January 2023 which was conducted by think tank Praxis “Subsistence Benefit Recipients and their socio-economic coping”.³ The study showed that more social assistance is needed for the individuals in vulnerable groups, since about 2/3 of them had faced economic difficulties despite received subsistence.

1.2. Policy measures impacting on vulnerabilities of persons affected by the rising costs of living and energy.

The following policy measures can be identified.

Regarding electricity.

³ Estonia, Praxis Think Tank (2023), Subsistence Benefit Recipients and their socio-economic coping, <https://www.praxis.ee/kajastused/pikaajalised-toimetulekutoetuse-saajad-vajavad-rohkem-tuge/>

The measure of Direct assistance to consumers (i.e. voucher, coupon, social policy, subsidy, etc.).⁴ Description: Low-income households will benefit (also retroactively) from discounted electricity prices between September 2021 to March 2022. At the end of 2021, Estonia decided to extend the energy price subsidy to low-income families to households with an income of less than €1,126 per month per first earner. According to the Estonian Minister of Public Administration Jaak Aab, this means that around 380,000 households across Estonia will benefit. The estimated cost of this subsidy is approximately €79 million, to be covered by the proceeds from the sale of CO2 emission credits.

The measure of Reduction in taxes/levies/system charges on energy bills was introduced in the same resolution specified above. Description: Network fees for all electricity consumers (both firms and households) were halved from October this year to March 2022. The Minister of the Environment, Tõnis Mölder, announced that the total cost of the measures amounts to about €100 million.

Direct assistance to more vulnerable groups.

On 22 September 2022, the government announced that the draft state budget for 2023 considers an energy subsidy equal to €50/MWh of electricity for household consumers, and that it would cover 80% of price increases that go above €80/MWh. Similarly, for gas and central heating, it would compensate 80% of price increases. Households will automatically have their bills reduced by this subsidy from October 2022⁵.

Table 1 – Promising practice

Promising practice	
Title (original language)	Elektrienergia kättesaadavuse tagamine
Title (EN)	Affordability of electricity supply

⁴ See the resolution of the Minister of Economic Affairs and Infrastructure (*Majandus- ja Taristuminister*) from 09 November 2021, available electronically at the State Bulletin Board (*Riigi Teataja*) in the Estonian language “The conditions and procedure for partial compensation of the final price of electricity” (*Elektri lõpphinna osalise kompenseerimise tingimused ja kord*): <https://www.riigiteataja.ee/akt/106112021001>

⁵ See the resolution of the Minister of Economic Affairs and Infrastructure (*Majandus- ja taristuminister*) from 15 September 2022, available electronically at the State Bulletin Board (*Riigi Teataja*) in the Estonian language “The conditions and procedure for partial compensation of the price of energy) (*Energia hinna osalise kompenseerimise tingimused ja kord*) : <https://www.riigiteataja.ee/akt/116092022012>

Promising practice	
Organisation (original language)	Vabariigi Valitsus
Organisation (EN)	Estonian Government
Government / Civil society	
Funding body	State budget
Reference (incl. URL, where available)	https://www.riigikogu.ee/en/sitting-reviews/the-riigikogu-passed-the-act-enabling-a-universal-service-for-electricity/ , https://mkm.ee/universaalteenus#miks-on-vaja-univers
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	February 2022 – March 2026
Type of initiative	Affordability
Main target group	General population
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	From October 2022 to April 2026 an electricity universal service (fixed electricity price) is put in place for households. On September 30, the Competition Authority set the temporary production price for universal electricity service at 154.08 euros/MWh, or 15.4 cents/kWh. From November 2022 to December 2023, small enterprises can also buy electricity with fixed price.
Highlight any element of the actions that is transferable (max. 500 chars)	The intervention of the government to secure energy affordability.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The government targets the entire population, but it is clear that most vulnerable households and population groups are affected more than the others by raising energy prices. The reason is that Estonia is located in a geographic region where in the winter time any household needs to spend funds for electricity, and in a

Promising practice	
	situation of scarcity of resources, these households need to make compromises elsewhere.
Give reasons why you consider the practice as having concrete measurable impact	The measure has already had direct and measurable impact, since vulnerable households can maintain control over their expenditures.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	Because such measure can have a general positive impact upon the entire population.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice	There were consultations among the public, various stakeholders were involved in the discussions and review assessment.
Explain, if applicable, how the practice provides for review and assessment	Statistically it can be measured how the energy bills for households have been affected.

2. Threats to democratic values - Protecting civic space, strengthening meaningful participation and the rights to freedom of association, peaceful assembly and expression

2.1. Major threats to democracy as reflected in national legal and political developments and the discourse at national level.

There are no major threats to democracy as reflected in national legal and political developments and the discourse at national level. There are challenges connected to democratic governance, some of which are identified below, but overall these do not mount to major threats.

Table 2 – Challenges

Based on a scan of legislative and policy and other developments and the public discourse please identify **three major challenges** to democracy emerged in the course of 2023.

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Attacks and threats to the safety of civil society organisations, human rights defenders and journalists	

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
Legal and administrative constraints, harassment, intimidation, and reprisals against civil society organisations, human rights defenders (including SLAPPs - strategic lawsuits against public participation)	
Lack of media freedom a/o media pluralism; disinformation (incl. online)	
Foreign interference	<p>After the Russian invasion against Ukraine the matter of war propaganda dissemination from Russian and Belarus media channels was immediately noticed by the authorities and the civil society. Estonia was one of the first countries which issued a prohibition to broadcast these channels. The matter has been ongoing ever since, as the war propaganda dissemination attempts occur via social media and sometimes via public statements of some politicians. The law enforcement authorities are attentive to these attempts and take preventive action – which, depending on the seriousness and scope of the attempts – can be in the form of discussion or even criminal sanctions. For reference regarding Estonia's steps please see a comparative study: https://graphite.page/gdhrnet-wp4/</p> <p>For police activities to counter false information please see news information from Estonian National Broadcasting: https://www.err.ee/1608697336/politsej-torjub-ukrainlasi-vaenavaid-infooperatsioone</p>
Lack of (processes for) transparent, accountable,	There are some concerns that the Estonian Government is using a tactic in legislative process where various legal amendments are united into one proposal, which leads to

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
democratic and pluralistic participation in law and policymaking; incl. access to information	<p>confusion of the public which changes are actually passed, and appears counter to the principle of transparent law making. The Chancellor of Justice has objected to such practice in the speech delivered to the Estonian Parliament on 19 April 2023. The Chancellor stated: "I am asking you /members of the Parliament/ to be attentive, when you are presented with a law which is as an empty picture frame, into which the government or official can place whatever picture. This is not law, this is rubbish, and it should not be passed." See for reference:</p> <p>https://www.oiguskantsler.ee/et/%C3%B5iguskantsler-%C3%BClle-madise-ettekanne-%E2%80%9Ekliima-kaitse-ja-p%C3%B5hi%C3%B5iguste-piirangud%E2%80%9C-riigikogus</p> <p>Similar criticism that laws are made in a hurry and are not always understandable to the public has been voiced by the Estonian President Alar Karis, see for instance his speech to the Parliament on 11 September 2022.⁶</p>
Lack of election integrity (incl. electoral process, political campaigning and party financing)	<p>There are some concerns that party financing may lead to influence by certain donors over the political process. Estonia is a small country and the budgets of political parties depend on income from the state (a legal provision giving to parties represented in the Parliament certain income) and from donations. There are sometimes sizeable donations which raise the question about the motivation of the donor. For instance, recently the Center Party (<i>Keskerakond</i>) returned a donation of 300 000 from a businessman who has been charged with corruption, see here:</p> <p>https://www.err.ee/1609034294/keskerakond-tagastas-pruunsillale-annetuse</p> <p>Another example is of a donation to political party <i>Isamaa</i>, where donation from one donor constitute around ¼ of all donations received https://svensester.ee/ekspress-ee-ekspressi-arhiivist-tal-on-aega-voimu-ja-raha-kuidas-parvel-</p>

⁶ Estonia, the President of the Republic, speech at the opening of the Estonian Parliament on the occasion of the opening of the parliamentary year: Available in translation to the English language from the website of the Chancellery of the President of Estonia: <https://president.ee/en/official-duties/speeches/53903-president-karis-even-crisis-rule-law-must-never-be-bent-out-shape>

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
	<p>pruunsillast-sai-eesti-poliitika-suurim-doonor-ja-mojukaim-mees-urmas-jaagant-holger-roonemaa-joosep-t/</p> <p>However, considering Estonia's scarce donation culture and public scrutiny available, it cannot be said that these instances have led to suspicious political influence.</p>
Disproportionate use of law enforcement measures (surveillance, police violence, unlawful arrest etc.)	
Corruption, including misuse of EU funds	
Lack of (effective judicial protection by) independent and impartial courts	
Threats to (the independence of) the fundamental rights institutional landscape (NHRIs, equality bodies, data protection authorities and similar bodies), incl. closure of fundamental rights bodies, legal changes, budget cuts and harassment	
Institutional issues linked to checks and balances (lack of parliamentary oversight, lack of implementation of	

Challenges	Justification/explanation: description of issue at stake and its overall relevance compared to other challenges to democracy and the civic space. Please provide examples and references.
final court decisions by executive, etc.)	
Other major developments threatening democratic values	Please explain

2.2. Legislative and policy measures having an impact on the freedom of assembly/association/expression of civil society actors.

Information regarding this question is provided through inquiry to Equal Opportunities Commissioner (*võrdsete võimaluste volinik*). Commissioner's office is not aware of any new national bills nor laws restricting freedom of assembly/association/expression of civil society actors. The [Estonian Law Enforcement Act](#) (§ 62) from 2014 clarifies, when the right for freedom assembly is restricted or prohibited. Organisation of meetings is prohibited when it:

- is directed against the independence and sovereignty of the Republic of Estonia or at changing the constitutional order of the Republic of Estonia by force;
- incites a breach of the territorial integrity of the Republic of Estonia by force;
- incites hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political views, or property or social status; or
- aims to commit criminal offences or to incite them.

In terms of who can organize meetings, § 64 of the same act stipulates that a meeting may be organised by an adult natural person with active legal capacity who is a citizen of the European Union or who holds a long-term residence permit or who is an alien staying in Estonia on the basis of a permanent right of residence or a legal person. In case of a legal person, they are to designate a natural person with active legal capacity who is to bear on the legal person's behalf the rights and obligations of an organiser of a meeting. The

natural person must give their prior consent for their designation in a form reproducible in writing. The organiser of a meeting is required to retain the consent until at least one year has passed from the last day of the meeting.

In light of these restrictions, the Commissioner points out a potential problem in terms of freedom of assembly (among them that of civil society actors). Simply put, when a meeting can only be organized by an adult and natural person, who is an EU citizen or a foreigner staying in Estonia with a resident's residence permit or permanent residence, then everyone's right to freedom of assembly is technically not guaranteed in Estonia. As the OSCE and Venice Commission guidelines on freedom of assembly emphasize, the duty of freedom of assembly must not discriminate against any person or group on any basis. Among other things, freedom of assembly must be granted to persons with limited legal capacity. Based on the practice of the European Court of Human Rights, recognition of a residence permit, as can be read from § 64 cannot justify limiting freedom of assembly.

While the Commissioner has not had any case law on that matter to our knowledge, this might be a potential issue of concern in the context of the question above. For example, under the current legislation, a civil society actor definitely needs a residence permit to exercise or have the right for the freedom of assembly. It is out of the Commissioner's mandate to evaluate, however, whether this limitation is proportionate or not.

Table 3 – Case law

Case law	
Deciding body (in original language)	Riigikohus
Deciding body (in English)	Estonian Supreme Court
Case number (also European Case Law Identifier ECLI , where applicable)	3-17-2718
Parties	NGO Halulaev v. Agricultural Registers and Information Board
Decision date	20 November 2019

Case law	
Web link to the decision (if available)	https://www.riigikohus.ee/et/lahendid/marksonastik?asjaNr=3-17-2718/30
Which fundamental freedoms of (peaceful assembly, association and/or expression) were referred to in the case?	The freedom of association
Key facts of the case (max. 250 words)	<p>The applicant, NGO Halulaev, received support through EU measure <i>Leader</i> from the respondent in the amount of 31 737 euro for the purchase of technical systems for galeas (<i>halulaev</i>). The respondent considered that 25% of the support amount was not eligible since the applicant had not provided specific terms for its assessment of offers submitted through procurement proceedings. The applicant submitted a claim to the court for annulment of the decision. The first instance court did not satisfy the claim, but the second instance court reversed the judgment, it annulled the first instance court judgment and the respective decision of the respondent. The circuit court concluded that the decision not to pay out the support fully is of discretionary nature and the respondent had not evaluated, whether European financial interests were infringed. The respondent submitted an appeal for cassation. The Estonian Supreme Court did not satisfy the appeal. Yet it added motivation to the arguments of the circuit court, since it concerned legal matters. The Supreme Court stated that the fact of an NGO receiving support from EU measure does not mean that a civil society organization is transformed into an entity fulfilling a public function.</p>
The key legal question raised by the Court	Whether an NGO, which is not by its charter fulfilling a public function, has to follow procurement rules in effect for entities fulfilling public functions?

Case law	
Result of the case in terms of factual outcome, and in terms of assessment of the legal question raised	The respondent is obligated to assess anew the awarding of the financial support. As for the key legal question, the Supreme Court concluded that receipt of public funding does not turn an NGO established on voluntary basis into implementing a public function.
