

An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory

Estonia

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Table of Contents

1. CIVIC SPACE DEVELOPMENTS IN 2022	3
1.1. AMENDMENT TO INCOME TAX ACT ALLOWS TAX-FREE DONATIONS FOR UKRAINE.....	3
1.2. CIRCUIT COURT RULES IN A CASE REGARDING DEFAMATION AND FREEDOM OF SPEECH.....	4
1.3. SUPREME COURT RULES ON COVID-19 LEGISLATION RESTRICTING FUNDAMENTAL RIGHTS	5
2. PROMISING PRACTICE IN 2022	7
2.1. CSO PARTICIPATION IN ELECTION OF GENDER EQUALITY AND EQUAL TREATMENT COMMISSIONER	7
3. VISA FOR HUMAN RIGHTS DEFENDERS.....	8
3.1. ENTRY AND STAY FOR HUMAN RIGHTS DEFENDERS (HRDs) AT RISK.....	8

1. Civic space developments in 2022

1.1. Amendment to Income Tax Act allows tax-free donations for Ukraine

Area	Financing framework
Topic	Tax regime
Impact	Minor

On 6 April 2022, an amendment to the Income Tax Act (*Tulumaksuseadus*) came into effect, allowing legal persons to make tax-free donations for Ukraine through seven associations named in said legal act.¹ This exemption remains in force until the end of the year 2023.

The new provision allows for an exemption from income tax from 24 February until 31 December 2023 for such donations and gifts of resident legal persons that are made to preserve the territorial integrity and sovereignty of Ukraine and for the purpose of providing and organising humanitarian aid. Donations made through the NGO Estonian Refugee Council (*MTÜ Eesti Pagulasabi*), NGO Mondo (*MTÜ Mondo*), the Ukrainian Cultural Centre (*Ukraina Kultuurikeskus*), the National Defence Promotion Foundation (*Riigikaitse Edendamise Sihtasutus*), the Estonian Red Cross (*Eesti Punane Rist*), the Rescue Association (*Päästeliit*) and the Rotary Club Tallinn Vanalinn (*Rotary Klubi Tallinn Vanalinn*) are exempt from income tax.²

¹ Estonia, Riigi Teataja, Law to amend the Taxation Act (submission of construction work data) and the Income Tax Act ([Maksukorralduse seaduse muutmise \(ehitustööde andmete esitamise\) ja tulumaksuseaduse muutmise seadus](#)), 23 March 2022.

² Estonia, Riigi Teataja, [Income Tax Act \(Tulumaksuseadus\)](#), § 61, 15 December 1999.

1.2. Circuit Court rules in a case regarding defamation and freedom of speech

Area	Freedom of expression and information
Topic	Defamation
Impact	Minor

On 30 November 2022, Tallinn Circuit Court (*Tallinna Ringkonnakohus*) made a ruling concerning the balance between freedom of speech and defamation. In July 2020, radio presenter Alari Kivisaar sued civic activist Katrina Raiend for defamation, after she posted a petition asking for Kivisaar's removal from a radio show for inciting racism and chauvinism. On 13 May 2021, Harju County Court (*Harju Maakohus*) decided to grant Kivisaar's action against Raiend. However, in appeal proceedings, Tallinn Circuit Court found that Kivisaar's statements on the radio show had been chauvinistic and racist and he had spread racist stereotypes. The Circuit Court based its conclusions on the explanations regarding the essence of racism and racist speech provided by internationally recognised experts. The Circuit Court also confirmed that a public petition is a legitimate and permissible way to exercise one's freedom of speech. However, the Circuit Court identified one sentence included in the petition as defamatory, as it had not been proven that Kivisaar had joked over a rape incident in a Ugandan running team in 2014 in the way that it was quoted in the petition. The Court declared that this sentence must be retracted and removed from the petition and Alari Kivisaar must be compensated for the moral damages caused to him by the misquotation in the amount of € 2000.³

³ Estonian Human Rights Centre (*Eesti Inimõiguste Keskus*), [Kivisaar versus Raiend: a petition is a part of freedom of speech, racist expression can be publicly condemned](#) (*Kivisaar versus Raiend: petitsioon on osa sõnavabadusest, rassistliku väljenduse võib avalikult hukka mõista*), 1 December 2022.

1.3. Supreme Court rules on COVID-19 legislation restricting fundamental rights

Area	Freedom of peaceful assembly
Topic	Participation in assemblies; equal treatment
Impact	Minor

On 31 October 2022, the Supreme Court ruled on the constitutionality of the legislation establishing COVID-19 restrictions.⁴ In May and August 2021, the government issued two executive orders (No. 212 and 305) based on the Communicable Diseases Prevention and Control Act (*Nakkushaiguste ennetamise ja tõrje seadus*). A total of 56 complainants filed complaints with the Administrative Court, stating that the two orders unconstitutionally restricted their fundamental rights, mainly because they could not participate in various activities as persons who did not have a COVID-19 vaccination certificate. The Administrative Court upheld the complaints and requested the Supreme Court to declare the relevant provisions of the Communicable Diseases Prevention and Control Act unconstitutional. According to the Administrative Court, the provisions set out in the act were disproportionate, not sufficiently clear, and did not define the limits of executive power.⁵

The provisions in question authorised the Health Board (or in some cases the government) to take various measures to prevent the spread of a communicable disease, for example, to close institutions and establishments; prohibit public meetings and organisation of public events; establish other restrictions on the freedom of movement.⁶

The Supreme Court noted that the restrictions imposed by the government orders violated many fundamental rights, such as the applicants' freedom of movement,

⁴ Estonia, Supreme Court (*Riigikohus*), [Case 5-22-4](#), 31 October 2022.

⁵ Estonia, Tallinn Administrative Court (*Tallinna Halduskohus*), [Case 3-21-2163](#), 31 May 2022.

⁶ Estonia, Riigi Teataja, [Communicable Diseases Prevention and Control Act \(*Nakkushaiguste ennetamise ja tõrje seadus*\)](#), § 27 (3), § 28 (2), (5), (6), (8), 12 February 2003.

freedom of association, freedom of entrepreneurship, right to education, right to family and private life, equal treatment. However, the Supreme Court found that the protection of people's life and health is a compelling constitutional goal, which can provide a basis for limiting other fundamental rights.

In conclusion, the Supreme Court ruled that the provisions in question did not restrict the fundamental rights of the applicants more intensively than permitted, the act is not too vague and the form of decision-making it authorises is permissible.

2. Promising practice in 2022

2.1. CSO participation in election of Gender Equality and Equal Treatment Commissioner

In the beginning of October, the Ministry of Social Affairs (*Sotsiaalministeerium*) announced a public competition for the position of the Gender Equality and Equal Treatment Commissioner (*Soolise võrdõiguslikkuse ja võrdse kohtlemise volinik*). The candidates had to go through structured preliminary interviews and various tests and appear before a broad-based expert committee who made the final selection, which in turn was sent for approval to the Minister of Social Affairs. For the first time, representatives of non-governmental organisations were included in the committee. The expert committee included representatives of the Estonian Chamber of People with Disabilities (*Eesti Puuetega Inimeste Koda*), strategic partners from NGOs in the field of equal treatment and gender equality, the Office of the Chancellor of Justice (*Õiguskantsler*), the Top Civil Service Excellence Centre (*Riigikantselei tippjuhtide kompetentsikeskus*) and the Gender Equality Council (*Soolise võrdõiguslikkuse nõukogu*).⁷

⁷ Estonia, Ministry of Social Affairs (*Sotsiaalministeerium*), Christian Veske will be Equal Treatment Commissioner ([Võrdse kohtlemise volinikuks saab Christian Veske](#)), 30 November 2022.

3. Visa for human rights defenders

3.1. Entry and stay for human rights defenders (HRDs) at risk

Dedicated visa scheme for HRDs at risk available in your country	No
Other type of visa or alternative legal entitlement or derogation clause applied to HRDs	Yes (only in connection with sanctions against Russia and Belarus)

In Estonia, the issuing of visas is regulated by the Aliens Act (*Välismaalaste seadus*). The Aliens Act does not outline any options for issuing visas on humanitarian grounds. This general situation notwithstanding, there is a derogation clause for “humanitarian reasons” in the regulation by which the Estonian Government imposed sanctions on Russia and Belarus in connection with the war in Ukraine. The regulation establishes a restriction on granting visas, short-term work permits and temporary residence permits to citizens of the Russian Federation and the Republic of Belarus, with a list of exceptions. One of the exceptions is that the regulation does not apply to Russian citizens whose arrival in Estonia is necessary for humanitarian reasons.⁸ In its press release, the Estonian Government has stated that visas will be issued to Russian and Belarusian citizens on humanitarian grounds in the event that returning to their home country would place their life and health in danger.⁹ There is no information available on the application process or eligibility criteria. There are also no available statistics on the issuing of such visas, nor published examples of Russian or Belarusian human rights defenders benefitting from this exception.

⁸ Estonia, Riigi Teataja, Government of the Republic (*Vabariigi Valitsus*), [Vabariigi Valitsuse sanktsiooni kehtestamine seoses Venemaa Föderatsiooni ja Valgevene Vabariigi agressiooniga Ukrainas](#), 8 April 2022.

⁹ Estonia, Government of the Republic (*Vabariigi Valitsus*), [Government to permit Russian and Belarusian refugees allowed into Estonia on humanitarian grounds to work in the country](#), 2 June 2022.

