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ACA EUROPE

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## *"Better Regulation"*

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## Answers to questionnaire: Estonia

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# ACA Europe questionnaire Better regulation

## Answers by the Supreme Court of Estonia

**Part 1: Input mechanisms *prior* to the drafting of legislation**

**A) Input from the courts**

**1. Are there any general mechanisms in your Member State for the courts, and more specifically the highest courts, to provide solicited or unsolicited input or advice in the phase before legislation is drafted?**

In Estonia, **the Rules for Good Legislative Practice and Legislative Drafting**[1] are applied in order to facilitate the development of legislation based on planning and analysis, public consultation and involvement of stakeholders, and an ex-post evaluation of law in force. The Rules for Good Legislative Practice and Legislative Drafting prescribe a system where the institution preparing a draft act discusses the problems and possible policy options of resolving the issues with interest groups, specialists and ministries in several stages. The Government of the Republic has also adopted **the Good Practice of Involvement**[2] that aims to give clear directions on how to engage interest groups and the public in the decision-making process to ensure the best possible quality and legitimacy of the decisions. When developing drafts, interest groups and the public are to be consulted in the earliest stage possible, and also during the whole drafting process. A public consultation must in any event be carried out in two stages of proceedings: when applying for a mandate for developing a draft (a legislative intent) and when the draft has already been developed (a draft act).

In order to identify the need to prepare a draft act, the institution preparing the draft act draws up **a legislative intent** (not required in only a few instances, for example if the proceedings need to be urgent with good reason, or in some cases where European Union law is concerned). The legislative intent must contain the field or the problem to be addressed and the target group, the purpose of the draft act, possible policy options of resolving the issue, comparison of the options, the preferable option and its compatibility with the current legal system, the description and structure of the planned legal instrument, its significant impact etc. If the content of the planned draft act is of fundamental significance in the Estonian legal system, the ministry concerned will, after the approval of the legislative intent and before laying down the provisions of the draft act, also prepare **the concept of the draft act**.

**Draft acts** are submitted to government bodies concerned with the topic or other stakeholders either for approval or for the receipt of an opinion. An explanatory memorandum is appended to the draft act, and a part of it is titled “Approval of draft, involvement of interest groups and public consultation”. It includes the opinions delivered and proposals made in the course of involvement and public consultation. The explanations and reasons for taking or not taking comments or proposals into account must be presented.

Most often, the whole consultation process is accessible for the public via the **Electronic Coordination System for Draft Legislation** (http://eelnoud.valitsus.ee). A public comment can be submitted to any legislative intent, concept of a draft act or a draft act by any person or institution interested in the topic even though they might not have been formally consulted.

The Supreme Court acts in this process similarly to any other interest group or public institution consulted. Legislative intents are submitted to the Supreme Court by the institutions (usually

[1] In English: https://www.riigiteataja.ee/en/eli/508012015003/consolide.

[2] In English: https://riigikantselei.ee/en/supporting-government/engagement-practices.

ministries) preparing a draft act. It is not compulsory for the Supreme Court to deliver an opinion or make a proposal, and most often, the Supreme Court does not give opinions to legislative intents. Courts of first and second instance are not consulted directly. Nevertheless, the majority of Estonian judges are members of the Estonian Association of Judges, and the Board of this association has submitted a number of opinions on draft acts[3].

What is more, according to the Constitutional Review Court Procedure Act[4] the Supreme Court also adjudicates requests for opinions on the interpretation of the Constitution in conjunction with the European Union law. Such a request for an opinion can be submitted by the Parliament of Estonia if the interpretation of the Constitution is of critical importance in the passing of a draft act which is necessary for the fulfilment of the obligations of the Member State of the European Union. Since the provision came into force in 2005, one request for an opinion has been submitted. In 2006, the Constitutional Review Chamber of the Supreme Court issued an opinion on the interpretation of the Constitution concerning the possibility of adopting the euro.[5]

**If so:**

**a. Are the courts consulted structurally or incidentally at this stage, and in what way? Is case law for example consulted?**

Legislative intents are submitted to the Supreme Court if necessary, based on whether the proposed draft act concerns the work of the courts (or some provisions often applied in case law). For example, among other opinions the Supreme Court has delivered an opinion on the legislative intent of the Ministry of Justice to prepare a draft act to amend the Courts Act. Opinions have also been delivered in more specific cases, for example the Ministry of Justice's legislative intent to prepare a draft act amending Section 157 of the General Part of the Civil Code Act.

Case law can surely be a factor indicating the need to amend existing or draft new legislation.

**b. Does feedback from the courts go directly to the legislator or indirectly to advisory bodies which can then decide to pass this on to the legislator?**

The Supreme Court gives feedback directly to the ministry preparing the draft act.

**c. To what extent do the courts themselves take the initiative to directly or indirectly advise the legislator or draw attention to the quality of legislation, for example by means of unsolicited advice, a response to a public consultation, or a contribution on that subject to the annual report?**

The Supreme Court and the courts of first and second instance have not been known to deliver unsolicited opinions on legislative intents. It has occurred in the rare case where there is a known widespread issue currently causing problems in courts and it might need solving by the legislator.[6] In

[3] In Estonian: http://www.ekou.ee/teg-arvamused.html.
[4] In English: https://www.riigiteataja.ee/en/eli/528122016013/consolide.
[5] In English: http://www.nc.ee/?id=663.
[6] For example, in the courts' yearbook 2014 (a yearly publication of the Supreme Court giving an overview of the developments in the court system throughout the previous year), an article was published on current issues concerning a certain provision in the Code of Administrative Procedure on procedural assistance (i.e assistance from the government towards payment of procedure expenses). Besides explaining the issue and giving an overview of the case law so far, the article stated that since it was known a working group was being formed to prepare amendments to the Code, the authors offered several possibilities on how the law could be improved. The authors of the article were two advisers to the Administrative Law Chamber of the Supreme Court. (Kuusk, P. Vallimäe-Tuberg, K. Väiksed lõivud, suured mured. Menetlusabi andmine halduskohtumenetluses. Kohtute Aastaraamat 2014, p 48. In Estonian: http://www.riigikohus.ee/vfs/1885/Kohtute%20aastaraamat%202014.pdf)

judicial proceedings, the Supreme Court has analysed the legislator's capacity and objectives on a broad array of topics, sometimes reaching the conclusion that a more unambiguous regulation is needed in a specific issue.

**d. What aspects of the quality of the legislation are specifically addressed and can you give an example?**

Any aspects of the quality of the legislation may be addressed. For example, in the Supreme Court's opinion on the legislative intent of the Ministry of Justice to prepare a draft act to amend the Courts Act, the Court expressed its opinion on several topics concerning the work of the courts (among others, proposals were made about the principles of organizing the judge's examination, increasing the number of members of the judge's examination committee, involvement in the self-governing bodies of the judicial system, etc.). In the case of the legislative intent to prepare a draft act amending Section 157 of the General Part of the Civil Code Act, the Supreme Court expressed the opinion that the legislative intent did not specify the particular problem to be addressed (issues based on a 10-year limitation period for enforcement instruments cannot have risen already by 2016, as the limitation period was only set in 2011). On the other hand, The Supreme Court may also point out problems in the wording of the draft provisions and other smaller issues.

**e. To what extent is the given input public?**

Opinions delivered on legislative intents are mainly intended for the use of the institution preparing the draft act. As a general rule, the opinions are public, nevertheless some exceptions have been known to occur. When an opinion is submitted via the Electronic Coordination System for Draft Legislation, it becomes accessible to the general public. In case an opinion is submitted directly to the institution preparing the draft act, it might not become public right away or be easily accessible.

**2. Are there objections or risks attached to the formal consultation of the courts at the stage before legislation is drafted? If so, what are they? How can they be resolved?**

The opinions the Supreme Court delivers on legislative intents are not binding in nature. This means that the institution preparing the draft act can, but is not obliged to take these recommendations into account. The main risks may be related to the possibility that the Supreme Court will later have to review the act in constitutional review proceedings (see answers to part 2 A). To avoid a possible conflict, in these opinions the Supreme Court does not make a direct statement on whether a certain proposed provision is constitutional or not, but rather expresses doubt or points to possible problems.

**3. Are there objections or risks attached to giving unsolicited advice at the stage of the drafting of legislation, for example by means of an unsolicited opinion, an annual report or publication? If so, what are they? How can they be resolved?**

Please see answer to previous question.

**B) Input from advisory bodies**

**4. Are there any general mechanisms in your Member State for advisory bodies to give solicited or unsolicited input or advice at the stage before legislation is drafted?**

The system of involvement in legislative drafting described in the answer to question 1 applies to any and all persons or institutions interested in the development of a specific field of regulation. There is no separate institution that gives opinions on legislative intents of draft acts (for example Councils of State specifically tasked with analysing draft acts in some countries).

**If so:**

**a. Are the advisory bodies consulted structurally or incidentally at this stage, and in what way?**

Public authorities and interest groups receive a legislative intent for approval or for the receipt of an opinion via the Electronic Coordination System for Draft Legislation, or in official correspondence. The parties to be engaged are chosen according to their fields of responsibility and interest based on the scope of the specific legislative intent.

**b. To what extent do the advisory bodies themselves take the initiative to advise the legislator or draw attention to the quality of legislation, for example by means of unsolicited advice, a response to a public consultation, a publication or a contribution on that subject to the annual report?**

Public authorities and interest groups may be directly approached during a public consultation; in addition, public comments can be submitted to any legislative intent, concept of a draft act or a draft act published in the Electronic Coordination System for Draft by any person or institution. The quality and volume of new legislation is constantly addressed in Estonia, for example the Estonian Service Industry Association (http://teenusmajandus.ee/en/) has been choosing the best and the worst law annually since 2011. The initiative receives a fair amount of attention in the media, and the previous year's winners are to be announced on 21st February.

**c. What aspects of the quality of legislation are specifically addressed and can you give an example?**

Any aspect of the quality of legislation can be addressed, for example the necessity of a new regulation as opposed to a better implementation of the existing one, the proposed solutions and their feasibility, but also the clarity, language, and structure of the draft act.

**d. To what extent is the given input public?**

As a general rule, the opinions are public, nevertheless some exceptions may occur. When an opinion is submitted via the Electronic Coordination System for Draft Legislation, it becomes accessible to the general public. In case an opinion is submitted directly to the institution preparing the draft act, it might not become public right away or be easily accessible.

**5. Are there objections or risks attached to the formal consultation of advisory bodies at the stage before legislation is drafted? If so, what are they? How can they be resolved?**

No obvious objections or risks can be identified here. Even if a consultation period may lengthen the process of adopting a new regulation, the quality, acceptability and applicability of the regulation should be improved. In practice, some problems have arisen due to public consultation periods coinciding with midsummer vacations, which may hinder the ability of some institutions to produce thorough analyses for approvals or opinions in a timely manner. The consultation period normally lasts for four weeks, and in such cases many institutions apply for an extension of the deadline.

**6. Are there objections or risks attached to advisory bodies giving unsolicited advice on the drafting of legislation, for example by means of an unsolicited opinion, a publication or a contribution on the subject in the annual report? If so, what are they? How can they be resolved?**

No objections or risks can be identified here.

**C) General**

**7. Are there any general or specific input mechanisms in your Member State (except for those for**

**the courts and advisory bodies) at the stage before legislation is drafted, for example public consultation via the internet or otherwise?**

Please see answer to question 1. We would like to emphasize that public comments can be submitted via the Electronic Coordination System for Draft Legislation to any legislative intent, concept of a draft act or a draft act by any person or institution interested in the topic even though they might not have been formally consulted. Nevertheless, submitting public comments is not very common.

As an additional means of fostering public involvement, the Participation Web (https://www.osale.ee/) allows any organization, interest group or expert to submit ideas and proposals to the government and voice their opinions on legislative intents or draft laws posted there for discussion. Still, this website permits involvement at a rather late stage of the development of new legislation, and thus may not constitute an early and meaningful possibility of participation for all interested citizens. What is more, just like the Electronic Coordination System for Draft Legislation, the Participation Web only allows individual reactions to an existing document, not cooperation and discussion between those interested in participating.

**8. Have you any additional or other remarks about input mechanisms before legislation is drafted?**

Although the Electronic Coordination System for Draft Legislation is quite a fine tool for communication between state institutions, it is not an easy information system to grasp for someone who does not usually work with official documentation. What is more, even state institutions themselves sometimes have different workflows that make either less or more use of the Electronic Coordination System for Draft Legislation. In reality, this means that meaningful participation is only available for those interest groups or private experts who are willing to familiarize themselves with the processes of the information system and state institutions as well as the principles and timeline of the involvement procedure itself.

**Part 2: Input mechanisms *after* legislation has been drafted**

**A) Feedback from courts**

**9. Are there any formal or informal feedback mechanisms in your Member State for the courts, and more specifically the highest courts, to provide solicited or unsolicited input or advice after legislation has been drafted and some experience has been gained with implementation and enforcement?**

The main formal feedback mechanism for the courts to provide input after legislation has been drafted is the constitutional review procedure, regulated by the Constitutional Review Court Procedure Act (CRCPA). Even in cases where there is no basis for constitutional review, the courts (especially the Supreme Court) occasionally express an opinion in their decisions on the quality of the legislation, for instance that an issue should be regulated more clearly, or that while the current provisions are not unconstitutional, their result is inefficient or unreasonable.

In addition, once a year the Chief Justice of the Supreme Court presents a review to the Parliament concerning courts administration, administration of justice and the uniform application of law (Section 27 (3) of the Courts Act[7]). In this review, the Chief Justice may draw attention to current issues arising from legislation.

[7] In English: https://www.riigiteataja.ee/en/eli/505012017005/consolide.

**If so:**

**a. Are the courts consulted structurally or incidentally at this stage, and in what way? Is case law for example consulted?**

The Supreme Court shall verify the conformity of a legislative act, refusal to issue thereof or an international agreement with the Constitution on the basis of a reasoned request, court judgment or court ruling (Section 4 (1) of the CRCPA). The constitutional review proceedings may in initiated in the following ways:

1) request of the President of the Republic to declare a law passed by the Parliament (Riigikogu) to be in conflict with the Constitution if the Parliament passes it for the second time and without amending it after it is returned for a new debate and decision (Section 5 of the CRCPA);

2) request of the Chancellor of Justice to repeal a legislative act or a provision thereof which has entered into force, to declare a legislative act which has been promulgated but which has not yet entered into force to be in conflict with the Constitution, to declare an international agreement which has been signed or a provision thereof to be in conflict with the Constitution, or to repeal a resolution of the Parliament concerning the submission of a draft act or other national issue to a referendum because of conflict with the Constitution or a significant violation of the established procedure upon passage of the resolution to hold the referendum (Section 6 (1) of the CRCPA);

3) request of a local government council to declare an act which has been promulgated but which has not yet entered into force to be in conflict with the Constitution or to repeal an act which has entered into force or a provision thereof because of conflict with constitutional guarantees of the local government (Section 7 of the CRCPA);

4) if a court of first instance or a court of appeal has not applied, upon adjudication of a case, any relevant legislative act or international agreement and declared it to be in conflict with the Constitution or if a court of first instance or a court of appeal has declared, upon adjudication of a case, the refusal to issue a legislative act to be in conflict with the Constitution, it shall forward the respective judgment or court ruling to the Supreme Court (Section 9 of the CRCPA);

5) one of the chambers of the Supreme Court may refer a matter to the Supreme Court *en banc inter alia* if it has reasonable doubts that a legislative act, refusal to issue thereof or an international agreement relevant to the adjudication of the case are not in conformity with the Constitution (Section 3 (3) of the CRCPA).

It may be presumed that the case law of the Supreme Court is routinely watched and consulted when considering the need to amend legislation. Rules previously created by the Supreme Court in the interpretation of existing provisions often find their way into new legislation.

**b. Does feedback from the courts go directly to the legislator or indirectly to advisory bodies which can then decide to pass on the feedback to the legislator?**

In constitutional review proceedings, the body which passed or issued the contested legislative act or which refused to pass or issue the legislative act, as well as the minister responsible for the area and a minister representing the Government of the Republic are always participants in the proceedings, and the Supreme Court asks their opinions concerning the constitutionality of the contested act (Section 10 of the CRCPA). In the adjudication of these cases, the Supreme Court may declare a legislative act which has not yet entered into force to be in conflict with the Constitution, declare a legislative act which has entered into force or a provision thereof to be in conflict with the Constitution and repeal it, declare the refusal to issue a legislative act to be in conflict with the

Constitution, declare an international agreement which has entered into force or has not yet entered into force or a provision thereof to be in conflict with the Constitution, repeal the resolution of the Parliament concerning submission of a draft act or other national issue to a referendum, declare that the contested legislative act, the refusal to issue a legislative act or the contested international agreement was in conflict with the Constitution at the time of submission of the request, or dismiss the request (Section 15 (1) of the CRCPA). A copy of the judgement shall be given to participants in the proceedings (Section 57 (6) of the CRCPA), and the judgment is pronounced publicly (Section 58 (1) of the CRCPA).

As for other court decisions that may contain feedback to the legislator, all court decisions (unless access is restricted for specific reasons) are published online and may therefore be consulted by both the legislator and relevant advisory bodies.

**c. To what extent do the courts themselves take the initiative to directly or indirectly advise the legislator or draw attention to the quality of legislation, or the lack of it, for example by means of unsolicited advice, a response in a public consultation, or a contribution on that subject to the annual report?**

The courts usually only give feedback on the quality of the legislation if such an issue arises in a dispute they must adjudicate, or in case of widespread problems occurring in many disputes, they may react with a contribution on that subject to the courts' yearbook (see answer to question 1c) or by drawing attention to the problem in the Chief Justice of the Supreme Court's annual review.

**d. What aspects of the quality of the legislation are specifically addressed and can you give an example?**

In constitutional review proceedings, a legislative act may be declared unconstitutional both for formal reasons (for example a violation of the rules regarding the size of the majority needed to pass a law in the Parliament) and for material violations of constitutional rights and principles (for example legal certainty, non-discrimination, right of recourse to the court, inviolability of private and family life, the autonomy of local self-government, etc).

Mainly, the aspects addressed in court decisions which only give feedback on the quality of the legislation without declaring the relevant law unconstitutional are ambiguity of the law and lack of sufficiently thorough rules concerning some issue. As a relatively recent example, in case no. 3-3-1-75-15 which concerned the applicability of the rules for the prevention of money laundering to the virtual currency bitcoin, the Administrative Law Chamber of the Supreme Court highlighted bottlenecks in the current regulation and suggested that the rules may need to be altered for certain types of alternative means of payment to take into account the specifications of each area of activity and the value of the risks of that area. According to the judgment, the legislator should consider clarification of the conditions applicable to the provision of services of alternative means of payment.[8]

**e. What is the reply if a problem arises in the practical implementation of the legislation that results in an acute increase in the workload of the (highest) court?**

The main way for the Supreme Court to react would be through its jurisprudence – the court may draw attention to the scale of a problem in the form of *obiter dictum*. The issue may also be included in the Chief Justice's yearly review to the Parliament (Section 27 (3) of the Courts Act). In addition,

[8] In Estonian: http://www.riigikohus.ee/?id=11&tekst=RK/3-3-1-75-15. Summary in English on Jurifast: http://www.aca-europe.eu/WWJURIFAST_WEB/DOCS/BE11/BE11000159.pdf.

such topics may be discussed by the Council for Administration of Courts at the initiative of the Chief Justice of the Supreme Court (Section 41 (3)(4) of the Courts Act).[9] Since the Minister of Justice participates in the Council, the information will reach the legislator.

**f. To what extent is the given feedback public?**

The decisions of the courts, as well as the courts' yearbook and the Chief Justice of the Supreme Court's review given on the basis of Section 27 (3) of the Courts Act, are published online.

**g. If feedback is given (solely) by judgment by the court, how is this done (for example obiter dictum, prospective ruling)?**

If the Supreme Court finds a law or a provision thereof unconstitutional, it is declared unconstitutional and repealed in the operative part of the judgment. When critiquing the law without declaring it unconstitutional, though, it is done in the form of *obiter dictum*.

**10. Are there objections or risks attached to the formal consultation of courts at the stage after legislation has been drafted? If so, what are they? How can they be resolved?**

It is important to distinguish the advisory role when giving opinions on draft legislation and the power to declare a law unconstitutional.

**11. Are there objections or risks attached to drawing the attention of the legislator, unsolicited, to shortcomings in the quality of legislation, including its soundness and implementability, for example by means of an annual report or publication? If so, what are they? How can they be resolved?**

It might be seen as the courts 'stepping into the legislator's shoes'. On the other hand, since these opinions are not binding, it makes more sense to view them as a useful source of information on the practical implementation of the law for the legislator.

**B) Feedback from advisory bodies**

**12. Are there any formal or informal feedback mechanisms in your Member State for the advisory bodies to provide solicited or unsolicited input or advice *after* legislation has been drafted and some experience has been gained with implementation and enforcement?**

Regarding formal feedback mechanisms, in case an ex-post evaluation is foreseen in the legislative act, in the explanatory memorandum of the act or in the impact assessment accompanying the relevant act, the ex-post evaluation must include the feedback of all relevant stakeholders, including public bodies. The ministries and all relevant stakeholders, including different public institutions have to be involved in accordance with Section 4 of the Rules of the Government of the Republic[10], the Good Practice of Involvement, and the Rules for Good Legislative Practice and Legislative Drafting (both referred to in the answer to question 1). The ex-post evaluation must be sent to the Parliament, the Ministry of Justice as well as all relevant stakeholders.

Informally, all ministries have their own mechanisms for gathering feedback on the functioning of the laws that fall under their responsibility. Some certainly have better practices than others. All public

[9] The Council for Administration of Courts is comprised of the Chief Justice of the Supreme Court, five judges elected by the Court *en banc*, two members of the Parliament, a sworn advocate appointed by the Board of the Bar Association, the Prosecutor General or a public prosecutor appointed by him or her, and the Chancellor of Justice or a representative appointed by him or her. The Minister of Justice or a representative appointed by him or her participates in the Council with the right to speak (Section 40 (1) of the Courts Act).

[10] In Estonian: https://www.riigiteataja.ee/akt/119012011004?leiaKehtiv.

bodies as well as private persons have the possibility to send their comments to and ask for meetings with the ministries. However, monitoring and ex-post evaluation of implementation and enforcement of laws is, as in most OECD countries, one of the main areas of regulatory policy in Estonia that can and should be improved.

**If so:**

**a. Are the advisory bodies consulted structurally or incidentally in this phase, and in what way?**

According to the Good Practice of Involvement, all relevant advisory bodies must be consulted. However, there is no precise procedure for carrying it out. It depends on the subject matter and the internal practices of the ministries. In some cases, certain bodies are given the function of making proposals for legislation to be passed or amended by law (for example the Competition Authority by Section 55 (2) of the Competition Act[11]).

Constant data collection on law enforcement and implementation as well as regular ex-post evaluations of laws are certainly highly important. Whether very precise rules and forms are necessary for that is still a question of debate.

**b. To what extent do the advisory bodies themselves take the initiative to advise the legislator or draw attention to the quality of legislation, or the lack of it, for example by means of unsolicited advice, a publication or a contribution on that subject to the annual report?**

As previously indicated, it is very difficult to generalize as the practice varies.

**c. What aspects of the quality of legislation are specifically addressed and can you give an example?**

As previously indicated, it is very difficult to generalize as the practice varies. As an example, the Competition Authority recently made a proposal to change the Public Transport Act's provisions concerning the granting of Community licences (which certify the holder's right to provide domestic and international regular services) for the purposes of equal treatment of service providers and advancing competition.[12]

**d. To what extent is the given feedback public?**

Ex-post evaluations as well as all other research or analyses ordered by the state or local government agencies must be made public according to Section 28 of the Public Information Act[13]. As for other types of feedback collected (for example information gathered from constant monitoring processes as part of daily work), there are no specific rules for publication. Normally, this data becomes public once a strategy document, green paper, legislative intent, draft act or other official government document is prepared by a ministry. Such data is important for explaining the problem, objective and possible ways of further action by the government. All the mentioned documents must be made available to the public via the Electronic Coordination System for Draft Legislation. Also, all legislative intents as well as explanatory memoranda of draft acts must include information on all the opinions and proposals received from the stakeholders and the public.

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[11] In English: https://www.riigiteataja.ee/en/eli/519012015013/consolide.

[12] In Estonian: http://www.konkurentsiamet.ee/public/Konkurentsiameti_ettepanek_liinilubade_andmise_korra_muutmise_kohta_14_11_2016.pdf.

[13] In English: https://www.riigiteataja.ee/en/eli/518012016001/consolide.

**13. Are there objections or risks attached to formal feedback from advisory bodies at the stage after legislation has been drafted? If so, what are they? How can they be resolved?**

No obvious objections or risks can be identified here. Formal, clear and well-regulated feedback mechanisms are certainly important for interested parties from outside the public sector. However, within the public sector itself, especially within the government structures, too many formal procedures can be counterproductive, creating unnecessary bureaucracy and not necessarily guaranteeing a better quality of communication and data exchange between offices.

**14. Are there objections or risks attached to advisory bodies giving unsolicited advice on the quality of legislation, including its soundness and implementability, for example by means of an annual report or publication? If so, what are they? How can they be resolved?**

No objections or risks can be identified here. It is only natural that all relevant parties not only participate in the preparation of legislation but also in the monitoring of its implementation.

**C) General**

**15. Are there any general or specific input mechanisms in your Member State (except for those for the courts and advisory bodies) at the stage after legislation has been drafted, for example public consultation via the internet or otherwise?**

According to Section 46 of the Constitution of the Republic of Estonia, everyone has the right to address informational letters and petitions to government agencies, local authorities, and their officials. These are regulated by the Response to Memoranda and Requests for Explanations and Submission of Collective Addresses Act[14] (RMRA). According to Section 2 (1) of the RMRA, a memorandum for the purposes of this act means an address presented by a person whereby he or she makes a proposal to the addressee for the organisation of the work of an agency or body or the development of an area, or provides information to the addressee about public life and state governance. These addresses may therefore include feedback on the legislation. In addition, Section 2 (3) of the RMRA provides for a collective proposals – proposals made by public initiative and submitted to the Parliament to amend the current regulation or improve the community life, the exercise of which is within the competence of the Parliament. At least 1000 signatures in support have to be collected for submission of a collective address (Section $7^1$ (1) of the RMRA).

The addressee of the memorandum has the obligation to respond (Section 5 (1) of the RMRA) and if the addressee finds that it is not within the competence thereof to consider any of the opinions or proposals presented in the memorandum, they shall forward the memorandum to the agency or body competent to respond (Section 5 (3) of the RMRA). In case of a collective address (henceforth called proposal), the Parliament must conduct legislative proceedings. The proposal is transmitted to the relevant committee or committees of the Parliament (Section $152^9$ (2) of the Riigikogu Rules of Procedure and Internal Rules Act[15] (RRPIA), who then considers the proposal within three months and makes a decision concerning the proposal within six months from the opening of proceedings on the proposal (Section $152^{12}$ (1) of the RRPIA). The committee may decide to initiate a bill or draft resolution or the deliberation of a matter of significant national importance, hold a public sitting, transmit the proposal to the competent institution for taking a position regarding the proposal and for resolving it, transmit the proposal to the Government of the Republic for developing a position regarding the proposal and for replying to it, reject the proposal, or resolve the problem raised in the proposal by other means (Section $152^{13}$ of the RRPIA). If the Committee decides to reject the

[14] In English: https://www.riigiteataja.ee/en/eli/501112016001/consolide.
[15] In English: https://www.riigiteataja.ee/en/eli/528122016004/consolide.

proposal, it must explain the reasons for the rejection to the contact person or persons indicated in the proposal (Section 152[14] (2) of the RRPIA).

**16. Have you any additional or other remarks about feedback mechanisms after legislation has been drafted?**

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