The Rule of Law



Mauri Gross. Same Story I. Oil on wood. 2023 (fragment of the work)

In line with the principle of the rule of law, state and local government institutions representing public power must act based on the Constitution and laws in conformity therewith. The rule of law also includes the principles of separation of powers and legal certainty and prohibits abuse of power. Unjustified unequal treatment is prohibited, and everyone must have access to fair administration of justice. The state must ensure people’s fundamental rights, which may be restricted only if unavoidably necessary.

During the reporting period, public attention focused on the Chancellor’s role and the limits of her powers in proceedings concerning a proposal to remove the parliamentary immunity of a member of the Riigikogu. To resolve the tension between what the law allows the Chancellor to do and what the Riigikogu expects of her, the Board of the Riigikogu tasked the Constitutional Committee with analysing the Chancellor’s competence in the process of removing parliamentary immunity.

Procedures for granting citizenship, extending residence permits and renewing identity documents continue to be overshadowed by the war launched by Russia in Ukraine and the resulting security concerns in Estonia. The Chancellor repeatedly had to remind the Police and Border Guard Board and other state authorities that permanent residents of Estonia and foreign nationals are entitled, in all such procedures, to expect the processes prescribed by law to be followed. Those processes cannot be delayed or distorted by reference to the heightened security situation.

As usual, the Chancellor also received complaints about the work of courts and judges. Several people expressed dissatisfaction with the way state and local government authorities respond to their complaints and other submissions.

Waiver of Parliamentary Immunity

Under § 76 of the Constitution of the Republic of Estonia, members of the Riigikogu are immune from prosecution. Criminal charges against a member may be brought only on a proposal of the Chancellor of Justice and with the consent of a majority of the members of the Riigikogu. Before such a proposal can be made, the Prosecutor General must submit a reasoned application to the Chancellor.

The Chancellor must then decide within one calendar month whether to propose that the Riigikogu grant consent for issuing a statement of charges or to return the Prosecutor General's application to the Office of the Prosecutor General. Where necessary, the Chancellor examines the materials of the criminal file, but does not assess or evaluate the evidence collected in the criminal proceedings.

This provision of the Constitution protects members of the Riigikogu, for example, against proceedings brought for the purpose of political persecution. If, on the Chancellor's proposal, the Riigikogu decides to waive a member's parliamentary immunity, this does not mean that the member under suspicion is guilty of committing a criminal offence. Such a decision by the Riigikogu merely allows the criminal proceedings to continue so that a court can determine whether the alleged offence was committed.

During the reporting year, the Office of the Prosecutor General submitted two applications to the Chancellor for the waiver of parliamentary immunity of members of the Riigikogu.

In November 2025, based on an application from the Prosecutor General, the Chancellor proposed that the Riigikogu waive Kalle Grünthal's parliamentary immunity. Kalle Grünthal was suspected of committing the criminal offence provided for in § 201(2) 3) of the Penal Code (embezzlement by an official).

Having examined the materials of the criminal case, the Chancellor found no circumstances that would preclude the continuation of criminal proceedings. Nor did the examination of the file provide any grounds for considering that the criminal proceedings had been initiated, or the suspicion raised, for an improper motive, such as political persecution or revenge.

The Riigikogu considered the Chancellor's proposal at its sitting on 2 December 2025 and decided to support it: 53 members of the Riigikogu voted in favour and three against.

In March 2026, based on an application from the Prosecutor General, the Chancellor proposed that the Riigikogu waive Tõnis Mölder's parliamentary immunity. The Office of the Prosecutor General suspected that Tõnis Mölder had committed the criminal offences provided for in § 294(2) 2) of the Penal Code (requesting a bribe and consenting to accept a bribe as an official) and § 209(2) 2) of the Penal Code (fraud by an official).

Having examined the materials of the criminal case, the Chancellor found no circumstances that would preclude the continuation of criminal proceedings. Nor were there grounds for suspecting that the criminal proceedings had been initiated, or the suspicion raised, for an improper motive.

However, the Chancellor informed the Riigikogu in writing and also noted in her report that, in most cases, the Chancellor's role in the process of waiving parliamentary immunity is limited to forwarding the Prosecutor General's application. Under the law, the Chancellor may refrain from making a proposal to the Riigikogu only where the bringing of charges would clearly be unjustified. The wording of the law conveys the intention of the Riigikogu fairly unambiguously: as a rule, the Chancellor is expected to submit a proposal for the waiver of parliamentary immunity to the Riigikogu and may return the Prosecutor General's application only in exceptional circumstances. Such an exceptional case may arise, for example, where the materials clearly show that the conduct in question does not constitute a criminal offence at all and/or there is no evidence whatsoever, or where the rules of procedure have clearly been breached, for example by carrying out covert operations without the requisite authorisation. Another exceptional case would be one in which the proceedings are clearly politically motivated, and this is apparent from the case file.

Whatever circumstances the Chancellor might wish to rely on when returning the Prosecutor General's application, she must be able to demonstrate that bringing charges in the particular case would clearly be unjustified — in other words, that there can be no doubt about it.

However, in recent debates on the waiver of parliamentary immunity, the Riigikogu appears to have expected something different of the Chancellor. It seems that the Chancellor is expected to review the legality and justification of the entire proceedings, including all procedural operations, assess the evidence collected in the case, and also express a view on the prospects of the proceedings. The Chancellor cannot do this.

The law prohibits the Chancellor from assessing evidence collected in criminal proceedings or deciding whether, in view of the nature and facts of the particular case, it is justified to continue proceedings that are burdensome for those involved and costly for the state. On 9 December 2014, the Riigikogu decided to amend the Status of Members of the Riigikogu Act so that it no longer makes a difference whether or not the Chancellor returns an application for the waiver of parliamentary immunity to the Prosecutor General. If a member of the Riigikogu is suspected of having committed a criminal offence, the running of the limitation period for that offence is suspended (§ 18^1(1) of the Status of Members of the Riigikogu Act). A member of the Riigikogu therefore does not avoid the proceedings even if the Chancellor returns the application to the Prosecutor's Office.

The Riigikogu considered the Chancellor's proposal. Forty-four members of the Riigikogu voted in favour and one against. As at least 51 members must vote in favour for parliamentary immunity to be waived, Tõnis Mölder retained his parliamentary immunity.

In response to this situation, the Board of the Riigikogu tasked the Constitutional Committee with analysing the Chancellor's powers in the process of waiving parliamentary immunity. The Riigikogu may clarify or supplement the procedure for waiving parliamentary immunity if it wishes to give the Chancellor a greater role in those proceedings.

Elections and the National Electoral Committee

The National Electoral Committee is formed under the Riigikogu Election Act. Its principal task is to exercise legal supervision over election-related decisions and acts. In addition, the Committee organises the election of the President of the Republic and the election of the Board of the Riigikogu.

The National Electoral Committee ascertains the voting results of Riigikogu and European Parliament elections and referendums, and registers the elected members of the Riigikogu and the members of the European Parliament elected in Estonia. The Committee also reviews election complaints.

The term of authority of the National Electoral Committee is four years. By law, its members are a judge of a court of first instance appointed by the Chief Justice of the Supreme Court; a judge of a court of appeal appointed by the Chief Justice of the Supreme Court; an adviser to the Chancellor of Justice appointed by the Chancellor; an official of the State Audit Office appointed by the Auditor General; a public prosecutor appointed by the Prosecutor General; an official of the Government Office appointed by the State Secretary; and an information systems auditor appointed by the management board of the Board of Auditors. Each member of the National Electoral Committee also has an alternate member.

The Chancellor is represented on the Committee by Deputy Chancellor of Justice-Adviser and Director of the Office of the Chancellor of Justice Olari Koppel. During the reporting year, the National Electoral Committee held 26 meetings. The Committee's resolutions and minutes of its meetings are available in the document register of the Chancellery of the Riigikogu.

Decisions on election complaints that reached the Supreme Court are available in the Supreme Court's register of decisions in constitutional review proceedings and on the Riigi Teataja website. A systematic overview of the 60 election complaints, most of which concerned the 2025 local government council elections, can be found in the section on constitutional review proceedings of the Supreme Court Yearbook, written by Chief Justice of the Supreme Court Villu Kõve.

In 2026, the pace of the Committee's work slowed. Between January and August, it resolved a total of six election complaints, most of which concerned safeguarding the rights of election observers.

The coronavirus pandemic that began in 2020 prompted more flexible ways of organising meetings. Online and hybrid meetings introduced at the time have become a permanent feature, saving, among other things, the time of both those lodging election complaints and those whose acts are challenged. This, together with growing interest among election observers in attending Committee meetings and several Supreme Court decisions arising from election complaint proceedings, has laid bare the need to amend, supplement and clarify the Committee's Rules of Procedure.

The disputes concern, in particular, the rules governing participation in meetings of the National Electoral Committee. Certain concepts also need clarification, above all the meaning of an *election complaint* and an election-related *act*. New Rules of Procedure are therefore being drafted and are expected to be completed by the end of 2026, ahead of the 2027 Riigikogu elections.

Supervision over Financing of Political Parties

Under the Political Parties Act, the Chancellor of Justice appoints one member to the Political Party Funding Supervision Committee (PPFSC). The Chancellor has appointed Kaarel Tarand, editor-in-chief of the cultural paper *Sirp*, as a member of the Committee. The Committee and its members are independent: they have no obligation to report on their activities to the persons or institutions that appointed them, nor do they take or receive instructions from them.

During the reporting year, a new composition of the Political Party Funding Supervision Committee took office.

The final year of the previous composition was spent waiting for the Riigikogu to approve amendments to the Political Parties Act intended to make the Committee's work more effective. The amendments entered into force in June 2026, but they still do not provide solutions to all the problems.

Two of the amendments are discussed below. They directly concern the Riigikogu and the political parties and election coalitions competing in elections, as well as their partners.

In a year of local government council elections, the PPFSC deals predominantly with complaints and submissions concerning the misuse of public funds by those in power in cities and rural municipalities. Paradoxically, local authorities traditionally — and rightly — defend their autonomy, implying that they wish to put their own house in order themselves. Yet in political competition this principle is often abandoned, and complaints about political rivals are submitted directly to a state supervisory body. The Committee is then obliged to initiate proceedings, but rather than making ethical judgments, it can examine only the financial aspects of the legality of the alleged conduct.

The financial value of an advantage gained through a local authority's information channels — whether a freely distributed newsletter or a social media account — is generally in the range of €50–100. Those involved in the proceedings often do not fully understand where exactly the line between permitted and prohibited conduct lies.

It is equally unclear how appropriate it is for such cases to be subject to state supervision, since proceedings in a single case may take up to six months. Given the number of complaints, this consumes the PPFSC's already limited resources.

Although the PPFSC has repeatedly made recommendations over the years on how election coalitions and political parties could better regulate and monitor their internal affairs and the lawful use of public funds at local government level, the number of complaints and submissions received by the PPFSC has not decreased. Unfortunately, the amendments to the Political Parties Act did not provide sufficient legal clarity concerning supervision of the activities of political parties and, in particular, election coalitions at local government level.

Over the years, the public has become increasingly critical of state law enforcement authorities initiating various proceedings in the hope that the courts will ultimately provide legal clarity on how an ambiguous law should be applied.

This creates a kind of vicious circle: the Riigikogu first adopts an ambiguous bill, after which law enforcement authorities must sooner or later apply those unclear provisions when dealing with cases that arise. In doing so, they become the target of criticism from politicians, the media and the wider public. If, once the proceedings have ended or a final court judgment has been delivered, the legislature does not amend the law, the cycle begins again.

For this reason, the PPFSC decided not to appeal the judgment of the court of first instance concerning whether political parties had received a prohibited donation from the Liberal Citizen Foundation (SALK). There were several reasons for this, including the fact that the primary purpose of supervision is not to engage in endless litigation with political parties to achieve legal clarity. That clarity could be achieved much more quickly, and at lower cost to society, by the political parties themselves in the Riigikogu.

For years, the Chancellor has pointed out that the Riigikogu should reconsider whether the prohibition on donations by legal persons to political parties is constitutional. The legislative amendments that entered into force this year also failed to provide comprehensive clarity on affiliated organisations or donations by legal persons. It can therefore be expected that the

PPFSC will soon again face complaints and proceedings in which lengthy and costly litigation may be unavoidable.

The work of the Riigikogu has a direct impact on supervision, the reputation of the law enforcement system, the development of democracy and fair political competition, and, above all, on political parties themselves. Parties seeking seats in the next Riigikogu should therefore start considering amendments to the Political Parties Act well in advance, with a view to resolving problems that are already on the horizon.

Citizenship

The Chancellor has identified numerous shortcomings in the activities of the Police and Border Guard Board (PBGB) concerning the rights of foreign nationals, the issuing of identity documents and the handling of citizenship matters.

Two young adults contacted the Chancellor because the PBGB intended to deprive them of Estonian citizenship. The PBGB considered that they might have acquired Russian citizenship by birth, even though their Russian citizenship had never been formally recognised.

The mother of each of the young people was a citizen of the Russian Federation and had not had her minor child’s Russian citizenship formally recognised. Both applicants had acquired Estonian citizenship by naturalisation while they were minors.

The PBGB informed both individuals that they had to have their Russian citizenship formally recognised and then renounce it. Otherwise, the PBGB intended to initiate proceedings to deprive them of Estonian citizenship.

The Chancellor explained to the applicants and the PBGB that, in such circumstances, the PBGB has no right to deprive a person of Estonian citizenship. Nor do these individuals need to apply to the Embassy of the Russian Federation or have their Russian citizenship formally recognised in order to retain their Estonian citizenship.

Each state determines for itself who its citizens are. It is only in the process of formally recognising citizenship that a state determines whether a person in fact holds its citizenship. If a person has not had their citizenship formally recognised, they cannot exercise the rights associated with that citizenship and are not subject to obligations towards that state based on citizenship. Where citizenship has not been legally recognised, there is no effective citizenship

relationship between the individual and the state. It is arbitrary and unreasonable to require an adult, merely to retain Estonian citizenship, to have the citizenship of another country formally recognised for the sole purpose of then renouncing it.

The Minister of the Interior agreed with the Chancellor and sent a letter to the PBGB asking it to suspend proceedings for deprivation of Estonian citizenship in such cases.

The petitions also revealed that the PBGB has still not complied with European Union law in proceedings concerning deprivation of citizenship. The Court of Justice of the European Union has held that, when deciding on the loss of nationality, the principle of proportionality must be observed where that loss would also entail the loss of citizenship of the European Union and the rights attached to it (see, for example, judgments of the Court of Justice in Case C-135/08, *Janko Rottmann v Freistaat Bayern*, 2 March 2010, paragraphs 55–59, and Case C-221/17, *M.G. Tjebbes and Others v Minister van Buitenlandse Zaken*, 12 March 2019, paragraph 40). The Court's case-law confirms that loss of the nationality of a Member State, where it also entails loss of Union citizenship, must be assessed in the light of the principle of proportionality. This requirement is linked to safeguarding the status of Union citizenship established by Article 20(1) of the Treaty on the Functioning of the European Union (TFEU). This means that, in such circumstances, a person may not automatically be deprived of Estonian citizenship even if they may also hold the citizenship of another country. Article 20(1) TFEU establishes Union citizenship for every person holding the nationality of a Member State.

This obligation under European Union law is directly applicable. The PBGB must therefore follow the principle even where Estonian legislation conflicts with European Union law. In such circumstances, a decision on deprivation of citizenship must be based on the principle of proportionality even if the Citizenship Act does not expressly provide for this.

The Riigikogu is currently considering the Bill on Amendments to the Citizenship Act and Amendments to Other Associated Acts (932 SE). Among other things, the Bill would provide that a person may not be deprived of Estonian citizenship if their citizenship of another country has not been formally recognised. The Bill had completed its first reading by September 2026.

The same Bill is intended to resolve the issue of granting Estonian citizenship to stateless children, which the Chancellor highlighted in the previous reporting year. The Bill would establish a legal basis for granting Estonian citizenship to stateless children where both

parents are stateless but at least one parent had not lived in Estonia for at least five years before the child's birth.

The Chancellor also received several petitions concerning the fact that the law does not allow people who have not been released from Ukrainian citizenship to apply for Estonian citizenship.

The Chancellor found that, in the particular case, there was no reason to consider the Citizenship Act unconstitutional. The state has a broad margin of discretion in setting the conditions for acquiring citizenship. Thus, a requirement to be released from another citizenship cannot be considered unconstitutional merely because the process may take time, where there are no grounds for regarding such release as impossible or clearly without prospect. There is therefore no reason to require an exception for Ukrainian citizens from the requirement to be released from another citizenship.

Rights of Foreign Nationals

Over the past year, the Chancellor has received numerous petitions concerning applications for residence permits and the legal status of foreign nationals.

Applying for a Residence Permit for the Spouse of an Estonian Citizen

One recurring issue has concerned the granting of residence permits to the spouses of Estonian citizens.

The Chancellor sent a memorandum to the Constitutional Committee of the Riigikogu, finding that two provisions of the Aliens Act concerning the granting of a residence permit to the spouse of an Estonian citizen are contrary to the Constitution. Section 139 of the Aliens Act requires a person applying for a residence permit for the spouse of an Estonian citizen to prove the existence of permanent legal income. In the Chancellor's view, this requirement is contrary to § 26, § 27(1) and § 36(1) of the Constitution of the Republic of Estonia.

There must be very compelling reasons for refusing to grant a residence permit to the spouse of an Estonian citizen and thereby preventing the spouse from settling in Estonia or requiring them to leave the country. A residence permit should therefore not be refused solely because the person does not have sufficient income within the meaning of the Aliens Act. An Estonian

citizen’s right to live in Estonia must in any event outweigh the requirement to meet the legal income threshold. If an Estonian citizen cannot live in Estonia together with their spouse, they would have to leave Estonia to live with them.

For example, the media reported a case in which an Estonian citizen was not allowed to settle in Estonia together with their British spouse. One of the reasons for refusing the residence permit was that the spouse did not have the legal income required by law, even though they had sufficient means of subsistence. Another problem is that, for formal reasons, some lawfully earned income is currently excluded when determining whether a person has sufficient income for the purposes of the Act. This is unfair and illogical.

The Chancellor found that the Aliens Act should be amended so that the requirement to prove legal income would not apply when a residence permit is sought for the spouse or registered partner of an Estonian citizen. In the Chancellor’s view, the list of income that may be taken into account where a person is required to prove legal income should also be clarified. Any income earned lawfully should be capable of being taken into account in residence permit proceedings.

Section 142(1) of the Aliens Act is also contrary to § 26, § 27(1) and § 36(1) of the Constitution because it allows an application for a residence permit for the spouse or registered partner of an Estonian citizen to be refused merely because, in theory, the couple could settle in another country. Since an Estonian citizen has an individual right to live in Estonia, a residence permit cannot be refused to their spouse solely because the couple may also be able to live in another country.

Requesting Bank Account Statements

Petitions submitted to the Chancellor revealed that, when processing residence permit applications, the Police and Border Guard Board (PBGB) requires applicants to provide complete, unfiltered bank statements. The petitions showed that PBGB officials had requested such information covering periods of more than two years.

PBGB officials justified the requests for bank statements by the need to verify whether a person had sufficient legal income, whether they had previously used their residence permit for its intended purpose, and whether they had actually lived in Estonia. The statements also provide the PBGB with information about people’s personal relationships.

The Chancellor found this practice unlawful. A person cannot be required to provide complete bank statements in residence permit proceedings. The Chancellor recommended that the PBGB bring its administrative practice into conformity with the Constitution and the law and stop requiring residence permit applicants to submit complete bank statements.

Where necessary, a person may be asked to provide an extract showing specific payments relevant to the circumstances that need to be verified in the proceedings. Neither the Constitution, legislation nor European Union law allows people to be required to disclose complete, unfiltered bank statements. Moreover, the circumstances relevant to deciding a residence permit application can also be verified on the basis of other evidence. For example, information held by the Tax and Customs Board can be checked, or the person can be asked to provide a certificate of income from their employer or evidence that a particular payment has been received. Other evidence of residence in Estonia or family relationships may also be requested. In this way, a person is not required to disclose private information that is unnecessary for deciding the residence permit application and whose disclosure interferes with the inviolability of private life.

The PBGB did not follow the Chancellor’s recommendation. It did not agree that complete bank statements may not be requested in residence permit proceedings where the necessary information, such as information about income, cannot be obtained from registers. The Chancellor is therefore continuing to deal with this issue.

Although a residence permit applicant must prove that they have income in the amount required by law, they are not required to disclose their entire financial situation to the PBGB. Nor may complete bank statements be demanded merely because the relevant information is not available in a register. The necessary information can be proved by specific extracts or other evidence. It is therefore sufficient for the person to demonstrate that they receive the relevant income. The PBGB has no right to examine their entire bank statement, which contains highly personal information.

The PBGB has also requested information about third parties from residence permit applicants, including information concerning the parents and adult children of a person residing in Estonia on the basis of a residence permit or applying for one. The information requested has included complete bank statements, employment contracts, social security information and information about the clients of a business. PBGB officials did not explain the purpose or legal basis for requesting this information, leaving the people concerned to ask

repeatedly for an explanation.

The PBGB has no right, in residence permit proceedings, to require private personal data concerning third parties, including parents and adult children who lead independent lives, do not live in Estonia and do not wish to settle in Estonia. If those people wished to settle in Estonia themselves, the necessary information should be requested directly from them.

The Director General of the PBGB acknowledged that there was insufficient legal basis for requesting information about third parties and undertook to change the PBGB’s administrative practice.

An administrative authority must explain without delay why it is requesting information and must provide the person with a comprehensive answer enabling them to understand why the information is being sought. It is therefore not sufficient for the PBGB merely to refer to a general legal basis when requesting information.

Rights of Third-Country Nationals Who Are Long-Term Residents

Several petitions revealed that the Police and Border Guard Board (PBGB) had intended to expel from Estonia citizens of the Russian Federation or persons of undetermined citizenship who were born and raised in Estonia, even where they had committed only minor offences.

For example, a young man contacted the Chancellor after forgetting to renew his residence permit card and residence permit in time. The PBGB refused to accept his residence permit application and instead issued him with a precept to leave. When the court provided an opportunity for a settlement, the PBGB accepted a new residence permit application for processing, but stated that it still intended to refuse the residence permit because the applicant was unable to meet certain conditions. No account was taken of the fact that, without a residence permit, he was unable to work. The PBGB also delayed deciding his application: by the time he contacted the Chancellor, the proceedings had already lasted for more than two months.

When examining a residence permit application, the applicant’s circumstances must also be taken into account. The PBGB is required to decide a residence permit application as quickly as possible. In such circumstances, the proceedings must not be delayed.

In another case, the PBGB refused to extend the residence permit of a woman who had been born in Estonia and had lived here all her life because she had committed shoplifting offences. The PBGB intended to expel the woman and her pre-school-age child from Estonia.

The Constitution also protects the right of a foreign national who was born in Estonia and has lived here for a long time to continue living in Estonia. Section 26 of the Constitution guarantees the right to the inviolability of private life. Foreign nationals who have lived in a country for a long time also fall within the scope of protection of this fundamental right. A long-term resident may be expelled only where there is an overriding public interest and the decision is proportionate, necessary and consistent with the aim pursued (see the judgment of the Grand Chamber of the European Court of Human Rights in *Slivenko v Latvia*, 9 October 2003, application no. 48321/99, paragraph 113).

Very serious reasons are required to justify the expulsion of a foreign national who has lawfully spent all or a major part of their childhood and/or youth in the country concerned (see, for example, the judgments of the European Court of Human Rights in *Levakovic v Denmark*, 23 October 2018, application no. 7841/14, paragraph 41, and *Savran v Denmark*, 7 December 2021, application no. 57467/15, paragraph 186).

The fundamental right to family life arising from §§ 26 and 27 of the Constitution also protects families in which the partners are not married (Supreme Court judgment of 19 June 2000, case no. 3-3-1-16-00, paragraph 1). This means that, when deciding on the expulsion of a foreign national, their family relationships, including the existence of a partner, must also be taken into account.

Thus, a foreign national who has lived in Estonia for a long time cannot be expelled solely because they failed to renew their legal basis for residence in time or because they have committed offences of relatively minor significance.

Issuing a Precept to Leave and Imposing a Prohibition on Entry

Several petitions have revealed that, when issuing a precept to leave, removing a person from Estonia or imposing a prohibition on entry, the Police and Border Guard Board (PBGB) does not comply with the requirements of the Constitution and European Union law. For example, several petitions have shown that the PBGB has issued a precept to leave and imposed a prohibition on entry solely because a person has stayed in Estonia without a legal basis. In doing so, the PBGB has failed to take account of relevant circumstances, such as the

person’s family ties.

Estonian law is not in conformity with Directive 2008/115/EC of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals. The Directive requires the PBGB, when deciding on a person’s return, to take due account of the person’s family life. Article 5 of the Directive expressly requires Member States to take due account of family life when implementing the Directive. The Court of Justice of the European Union has held that this provision has direct effect. The Chancellor is continuing to deal with this issue.

The Chancellor has also received petitions concerning cases in which the PBGB has failed to reassess the lawfulness of a precept to leave after the person’s circumstances have changed significantly during the proceedings. In one case, for example, the PBGB issued a precept to leave to a person whose application for international protection had been rejected. The person subsequently married an Estonian citizen. The PBGB nevertheless left the precept to leave in force, even though this circumstance had not been taken into account when the precept was issued. As a result of the Chancellor’s proceedings, the PBGB ultimately suspended the effect of the precept to leave and issued the person a residence permit to settle with their spouse.

Compliance with Administrative Procedure Requirements

The Chancellor received a large number of petitions concerning the failure of the Police and Border Guard Board (PBGB) to comply with the requirements of administrative procedure when processing residence permit applications.

During the reporting year, many people again complained that the PBGB was violating their rights because the only way to submit a residence permit application was to book an appointment at a PBGB service office. At the same time, waiting times for appointments exceeded three months.

In such circumstances, it is difficult for businesses to bring foreign nationals to Estonia for work, and families may also face difficulties. Some people have had to apply for a long-stay visa, for example, even though what they actually wanted was a residence permit.

In 2017, the Chancellor sent the PBGB a memorandum, explaining that the requirement to book an appointment in order to submit a residence permit application is contrary to the law and the principle of good administration. In the Chancellor's view, people must have the option of submitting a residence permit application on a walk-in basis. Booking an appointment to submit an application can only be a voluntary option.

It is, of course, also unlawful and contrary to the principle of good administration if an appointment cannot be obtained within a reasonable time. A three-month waiting time is unreasonably long. In this way, the PBGB restricts people's access to the procedure. Within the same period, the PBGB should already have made a substantive decision on the residence permit application (see § 26(1) and § 44(1) of the regulation of the Minister of the Interior). The PBGB's practice is therefore contrary to §§ 3 and 14 of the Constitution.

The PBGB has previously stated that, where an application is urgent, a person is allowed to submit it on a walk-in basis. The PBGB has also explained that a person wishing to book an appointment at a PBGB service office to apply for a residence permit or its extension should contact the PBGB's migration advisers.

It must be possible to submit a residence permit application promptly in all regions of Estonia, without people having to search for a service office with an available appointment.

The Chancellor also asked the Emergency Response Centre to ensure that staff answering the State Helpline inform people that they can contact the PBGB's migration advisers, who can help them find a suitable way to submit an application outside the appointment booking system.

Length of Proceedings

Another continuing problem is the delay in processing residence permit applications, which causes proceedings to take too long. In many cases, proceedings have lasted more than six months, and in some cases more than ten months.

The case files show that officials have sometimes taken procedural steps only several months after the application was submitted. As a result, some steps have had to be repeated, for example by requesting updated information about income. Deficiencies in the documents submitted, such as the need for an apostille, have sometimes been pointed out only shortly before a decision on the application should already have been made.

Opinion Submitted to the Supreme Court

The Chancellor submitted an opinion to the Supreme Court in constitutional review case No 5-25-79, in which Tallinn Circuit Court of Appeal had declared the former § 7(2) of the Act on Granting International Protection to Aliens unconstitutional. Under that provision, a refugee's de facto cohabiting partner was not considered a family member if marriage or registration of a partnership had been legally impossible in the refugee's country of origin.

The Chancellor found that § 7(2) of the Act on Granting International Protection to Aliens, in conjunction with subsection (5) of the same section, was contrary to §§ 12, 26 and 27 of the Constitution insofar as it did not allow a refugee's de facto cohabiting partner to be considered a family member where it had been established that the couple had lived together before arriving in Estonia and marriage or registration of a partnership had been legally impossible in the refugee's country of origin.

The Supreme Court declared the provision unconstitutional.

Identity Documents

Petitions submitted to the Chancellor have revealed that the Police and Border Guard Board (PBGB) has required people who acquired Estonian citizenship by naturalisation and are applying for a new ID card to provide various confirmations and additional documents for which there is no legal basis. For example, the PBGB asked one person to provide written confirmation that they did not hold the citizenship of any other country. The person was also asked to provide additional documents showing the legal basis on which they were residing in Italy. According to the PBGB, requesting such information is standard administrative practice.

This practice is unlawful because there is no basis for requiring such information when deciding whether to issue an ID card to an Estonian citizen. The PBGB may ask people applying for a new ID card only for information and evidence relevant to deciding whether the identity document should be issued. It may not request information or documents that are not required by law and on which the decision to issue an identity document does not depend. The Identity Documents Act regulates the issue of identity documents to Estonian citizens and sets out the basis for issuing an identity card to an Estonian citizen.

The PBGB may therefore not refuse to issue an ID card because a person has declined to answer additional questions for which there is no legal basis. Nor may the time limit for issuing an ID card be extended because the PBGB has requested information unlawfully.

Citizens of the European Union have the right to move and reside freely within the territory of the Member States. Nor may questions about the legality of residence in another country be asked merely because an Estonian citizen happens to be living outside the European Union when applying for a new ID card. Where necessary, those circumstances are a matter for the country in which the Estonian citizen is residing. The law does not allow the renewal of an ID card or passport to be used as an opportunity to require people who acquired Estonian citizenship by naturalisation to provide confirmation or proof that they do not hold the citizenship of any other country. Under the principle of good administration, people must not be misled into believing that they are required to answer questions which the law does not authorise the PBGB to ask.

The PBGB must bring its administrative practice into conformity with the Constitution and the law. When issuing an identity document, it may request only information for which there is a legal basis and which is relevant to the decision on issuing the document.

Issuing Children’s Identity Documents at Selver Stores

The Chancellor received a petition concerning the practice whereby a child’s identity document can be collected from a Selver store only by the parent who applied for the document. The other parent who has legal custody is unable to collect the child’s document from the store.

The Chancellor found that this administrative practice is contrary to the law.

Issuing identity documents is one of the state’s core functions. The conditions for issuing such documents are laid down by law. Even where the state has, under an administrative contract, partly transferred the function of issuing identity documents to a private-law entity (documents are issued by AS Selver), all statutory requirements must still be complied with when the documents are handed over.

Under § 120(1) of the Family Law Act, a parent who has legal custody is the legal representative of the child. A legal representative’s right of representation may be restricted only in accordance with the law. The law does not impose any restrictions on the issue of

documents depending on which parent applied for the child’s document. Both parents who have legal custody are therefore entitled to collect the child’s document, regardless of which of them submitted the application.

The Chancellor asked the authorities to ensure that either parent who has legal custody can collect the child’s identity document even where it is issued by a private-law entity, regardless of which parent submitted the application. The Chancellor agreed that Selver employees cannot be given full access to all the information in the Population Register merely to verify a parent’s right of representation. To ensure that the procedure runs smoothly, a Selver employee would only need a yes-or-no answer to the question of whether the parent collecting the document is entitled to receive it.

As implementing such a solution will take time, other arrangements must be used in the meantime. For example, PBGB officials could themselves verify the details of both parents who have legal custody and make the relevant information available to Selver employees. It must also be possible to change the place of issue of the child’s document without charging an additional state fee. Where the place of issue is changed, the document must be sent to the new location as quickly as possible. Parents applying for a document for their child should also be informed more clearly that, without any additional steps, a document can be collected from Selver only by the parent who submitted the application.

The PBGB responded to the Chancellor’s recommendation by stating that the other parent can collect their child’s document from Selver if they first submit a separate application to the PBGB. This allows the PBGB to verify the other parent’s right of representation.

Soon after the new arrangement was introduced, the Chancellor received a complaint that the solution was excessively bureaucratic. The Chancellor is continuing to deal with the issue.

Residence Card for a Family Member of a European Union Citizen

The Chancellor was asked to examine whether it is compatible with European Union law to charge a significantly higher state fee for issuing a residence card to a family member of a European Union citizen than for issuing an identity document to an Estonian citizen or a European Union citizen.

The Chancellor identified several violations and issued a recommendation to the Police and Border Guard Board (PBGB).

Under Article 25(2) of Directive 2004/38/EC of the European Parliament and of the Council, the fee charged for issuing a residence card to a family member of a European Union citizen may not exceed the fee charged to Estonian citizens for issuing similar documents. Under Estonian law, however, the state fee charged to family members of European Union citizens was several times higher. The state fee for issuing an ID card to an Estonian citizen or a European Union citizen was generally €45, whereas €115 was charged for a residence card issued to a family member of a European Union citizen.

The European Commission has also explained that, under the Directive, the fee charged to a family member of a European Union citizen may not exceed the fee charged to an Estonian citizen for issuing an ID card.

The Chancellor found that Article 25(2) of Directive 2004/38/EC has direct effect. The PBGB is required to apply European Union law where it has direct effect. In such circumstances, provisions of national law that conflict with European Union law must be left unapplied. The Chancellor asked the PBGB to reimburse the applicant for the part of the state fee exceeding €45.

It was also unlawful for the PBGB to issue a residence card to a family member of a European Union citizen with a period of validity of less than five years. The shorter period had been intended to ensure that the family member’s residence card would expire at the same time as the European Union citizen’s ID card.

The Chancellor found that this was contrary to Article 11(1) of Directive 2004/38/EC. Under Article 11(1), a family member’s residence card must be valid for five years from the date of issue, unless the envisaged period of residence of the European Union citizen is shorter than five years. The European Commission has also taken the view that it is not justified to issue a family member with a residence card valid for less than five years solely to align its validity with that of the European Union citizen’s ID card.

The Chancellor asked the PBGB to ensure that residence cards issued to family members of European Union citizens are, as a rule, valid for five years. The PBGB complied with the Chancellor’s recommendation.

The same issues are also addressed, among other matters, in the Bill on Amendments to the Citizenship Act and Amendments to Other Associated Acts (932 SE), currently before the Riigikogu.

The Chancellor's report for the previous year also addressed a problem concerning the conditions under which a family member of a European Union citizen acquires a permanent right of residence. The problem was that not all the time the person had lived in Estonia was counted towards the required period of residence. At the time, the Ministry of the Interior reported that the PBGB had changed its administrative practice and brought it into conformity with European Union law. As a result, the five-year period of residence in Estonia required for a family member of a European Union citizen to acquire a permanent right of residence now includes the period during which their application for a temporary right of residence was being processed, as well as the period of temporary stay in Estonia immediately preceding the application, rather than only the period during which they resided in Estonia on the basis of a temporary right of residence.

Bill 932 SE would amend the Citizen of the European Union Act and bring the relevant provisions into conformity with European Union law.

Courts

The Chancellor encounters the work of the courts in three ways. She participates in the work of the Council for Administration of Courts; she may initiate disciplinary proceedings in respect of all judges; and she submits opinions to the Supreme Court in constitutional review court proceedings.

The Council for Administration of Courts convened twice in the second half of 2025 and three times in the first half of 2026.

Complaints about Judges' Work

Under the Courts Act, besides the chief judges of courts and the Supreme Court en banc, the Chancellor of Justice is the only institution outside the court system that may initiate disciplinary proceedings in respect of a judge. The final decision in a disciplinary case is made by the Disciplinary Chamber operating at the Supreme Court.

When deciding whether to initiate disciplinary proceedings, the Chancellor does not assess substantive issues concerning the administration of justice. She may only assess whether a judge has failed to perform their official duties or has behaved disreputably.

Mostly, however, people turn to the Chancellor in matters in which she cannot intervene. Most often, people are dissatisfied with a court decision or with the way the court has assessed evidence. They therefore expect the Chancellor to intervene in court proceedings and assess the decision made by the court. The Chancellor cannot do this because, under the Constitution, justice is administered by the courts, and only a higher court may assess substantive issues concerning the administration of justice.

Nevertheless, every year there are also cases where the Chancellor examines judges' work more closely in the courts information system to determine whether there are grounds for initiating disciplinary proceedings. During the reporting period, there were 18 such cases. In none of them did the Chancellor find grounds to initiate disciplinary proceedings against a judge.

Most complaints to the Chancellor concerned lengthy civil proceedings. The workload of judges dealing with civil cases has continued to increase in recent years, and resolving cases therefore takes longer than before. In none of the cases, however, was there reason to reproach a judge for unjustifiably delaying the resolution of a case. Proceedings had taken longer either because of the circumstances of the case — for example, because the parties had submitted numerous applications which the judge had to resolve — or because of the judge's heavy workload. The petitions submitted to the Chancellor show that people have very different expectations as to how quickly a court should resolve a dispute.

When determining the order in which cases are dealt with, judges follow the good practice of court proceedings. This means that certain cases must be given priority in civil proceedings, including cases concerning the interests of minors. Other civil cases are generally dealt with in the order in which they reach the court.

Several judicial positions — 14 in total — have remained vacant for a long time, which also affects the workload of serving judges. In the spring, the Minister of Justice and Digital Affairs announced a competition to fill all vacant judicial positions, so the heavy workload of judges may ease somewhat in the coming years.

Complaints were also made that personal data had been disclosed without justification to the opposing party in court proceedings and that court documents had not been properly served. In these cases too, the Chancellor found no fault with the conduct of the judges.

Several complaints concerned the allocation of child custody or the payment of maintenance for a child. Parents were dissatisfied with the judge's decision and questioned the judge's impartiality. In none of these cases did the Chancellor find that the judges had been biased.

Responding to Applications

People are often dissatisfied with how public authorities have dealt with their applications.

The Chancellor monitors whether public authorities comply with the law in their work, including the principles of good administration. Among other things, good administration requires authorities to communicate with people politely and to the point. Authorities must also organise their work so that no one is left uninformed or in an uncertain situation because of their action or inaction.

Problems can begin with something as basic as an authority failing to register an application.

Under the Public Information Act (§ 12(1) 1)), applications and other documents must be registered in the authority's document register no later than on the working day following the day on which they are received. The requirement to register documents helps to ensure that every application leaves a trace and that every application is dealt with.

The Chancellor found, for example, that Kohila Rural Municipality Government, Nõo Rural Municipality Government and Viru-Nigula Rural Municipality Government had failed to register applications properly.

There were also problems with responding to applications within the prescribed time limits. In carrying out its duties, an authority is required to comply with the time limits laid down by law. Observing deadlines and keeping people informed are part of good administration. Under the Response to Memoranda and Requests for Explanations and Submission of Collective Proposals Act (MSVS), a memorandum or request for explanation must be answered without undue delay, but no later than within 15 calendar days of its registration. In complex cases, the time limit may be extended to up to two months (§ 6 MSVS).

A request for information must be complied with promptly, but no later than within five working days. If identifying the information is time-consuming, the time limit may be extended to up to 15 working days, but the person must be informed of the extension (§ 19 of the Public Information Act).

As a rule, the time limit for reviewing a challenge is governed by § 84 of the Administrative Procedure Act. An authority must adjudicate a challenge within ten days. If the challenge requires further examination, the time limit may be extended by up to 30 days. The person who filed the challenge must be informed of the extension.

The Ministry of Justice and Digital Affairs, the Ministry of Economic Affairs and Communications, the Land and Spatial Development Board, the Health Board, Haljala Rural Municipality Government, Harku Rural Municipality Government, Jõelähtme Rural Municipality Government, Jõhvi Rural Municipality Government, Kiili Rural Municipality Government, Kose Rural Municipality Government and Nõo Rural Municipality Government had problems responding to applications within the prescribed time limits.

Several people were dissatisfied with the way an extra-judicial body conducting proceedings — a rural municipality or city government — dealt with their appeals against cautionary fines and failed to ensure their right of recourse to court. Instead of resuming the misdemeanour proceedings and making a decision as required by law, the extra-judicial body merely exchanged correspondence with the person.

A rural municipality or city government deals with violations of standing and parking requirements in accordance with the procedure laid down in the Code of Misdemeanour Procedure (§ 241 and § 263(2) of the Traffic Act). In written caution proceedings, a cautionary fine of €40 may be imposed for standing or parking a vehicle in an unauthorised place (§ 262 p 2 of the Traffic Act; where the conduct poses a hazard or significantly disturbs traffic, the fine is €80 (§ 262 p 3 of the Traffic Act).

If a person does not agree with the cautionary fine, they have the right to contest it in accordance with the Code of Misdemeanour Procedure (see § 54^5). An appeal against a notice of fine cannot be filed directly with a county court; it must first be filed with the extra-judicial body conducting proceedings that issued the notice of fine.

The Supreme Court has explained that, when adjudicating an appeal against a notice of fine, the extra-judicial body conducting proceedings must first assess whether the appeal complies with the statutory requirements. If it does, the body can decide only whether to resume the misdemeanour proceedings under expedited or general procedure and make a decision on imposing a misdemeanour sanction, or to terminate the misdemeanour proceedings and annul the notice of fine.

If the body conducting proceedings does not agree with the arguments raised in the appeal or does not consider the evidence submitted relevant or sufficient to annul the notice of fine, it cannot dismiss the appeal but must resume the misdemeanour proceedings. The proceedings must also be resumed where the person contests the fine on the ground that the statutory elements of a misdemeanour are absent. Once the misdemeanour proceedings are resumed, the written caution proceedings come to an end and all the rules governing expedited or general procedure apply, including the right to appeal the decision of the extra-judicial body conducting proceedings to a county court (§ 114(1) 1) and 2) of the Code of Misdemeanour Procedure; Supreme Court judgment of 12 December 2017, case No 5-17-12, paragraph 26 et seq.).