



European Network of
National Human Rights Institutions

Implementing the Council of Europe Recommendation on National Human Rights Institutions: The State of Play

The situation in Estonia



Estonia Country Report

Overview

Name of NHRI and mandate:

- The Chancellor of Justice
- NHRI. Also: Ombuds-institution, supervisor of the constitutionality of legislation, NPM, ombudsman for children, NMM for the CRPD and equality body

Sources:

- NHRI: [ENNHRI State of the Rule of Law in Europe in 2022, Estonia Country Report](#); [ENNHRI, State of the Rule of Law in the European Union in 2023](#)
- Sub-Committee on Accreditation (SCA): [SCA Report December 2020](#)
- CoE Independent Bodies: [CPT Country Report on Estonia \(2017\)](#); [ECRI Country Report on Estonia \(2022\)](#); [Commissioner for Human Rights of the Council of Europe report on Estonia \(2018\)](#)

Good practices and improvements:

- **CM Principle 1:** The Chancellor of Justice is an A-Status institution.
- **CM Principle 6: broad and constitutional mandate, including independence: As commended also by the CoE Commissioner for Human Rights (2018),** the Chancellor of Justice is an independent institution established by the constitution, which enjoys wide ranging powers and strong independence safeguards.

- **CM Recommendation 3§6: strong mandate to contribute to an effective justice system:** The Chancellor has a strong mandate to contribute to justice for individuals, including through complaints handling, constitutional review and carrying out awareness raising. Moreover, the Chancellor is a member of the Council for Administration of Courts; has the power to initiate disciplinary proceedings in respect of all judges and prepares opinions for the Supreme Court in constitutional review court proceedings.
- **CM Recommendation 9: obligation to follow-up NHRI recommendations and strong procedures supporting follow-up:** Addressees of the NHRI's recommendations are legally obliged to provide a timely and reasoned reply. Moreover, the Chancellor reports that overall the recommendations are usually taken into account while the Chancellor has significant powers to advance follow-up of its recommendations.
- **CM Recommendation 11: constitutional guarantees enabling NHRI independence:** The Constitution and the Chancellor of Justice Act provide the Chancellor of Justice with strong tools for independent performance of her duties. In case of obstruction, the Chancellor has the right to apply for comments of disciplinary procedures against officials who obstruct the actions of the Chancellor of Justice or her advisers and/or inform the public of obstruction of her activities (§ 35 of the Chancellor of Justice Act).

Key areas where improvement is needed:

- **CM Principle 4: broad and transparent selection and appointment of the leadership:** the SCA (2020) reported that the process enshrined for the appointment of the NHRI leadership is not sufficiently broad and transparent. In particular, the applicable Act does not formalize broad consultations and does not require publication of the vacancy. Furthermore, the Act leaves open the possibility of unlimited tenure.
- **CM Principle 6: independent budget:** a draft law amending the State Budget Act has been prepared to foresee for the Chancellor of Justice and other independent constitutional institutions a special annual budget application procedure. The purpose of this is to ensure the greater budgetary independence of these institutions from the Government of the Republic, who is generally responsible for drafting the State's annual budget. However, the draft act has not reached the Riigikogu proceedings yet.

Specific findings per Principle

The tables below include data on the assessment of the implementation of each Principle (i.e. the individual parts) within the Recommendation from three sources: the National Human Rights Institutions, the Sub-Committee on Accreditation of GANHRI and the Council of Europe independent bodies. Overall, the findings are considered in four overall groups: the establishment of NHRIs; the strengthening of NHRIs; a safe and enabling environment for NHRIs; and cooperation with and support for NHRIs.

I. Establishment of NHRIs

Principle 1	Member States should ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<i>SCA report December 2020, p. 9</i> ‘The SCA recommends that the Chancellor of Justice be accredited with A status. The SCA welcomes the establishment of the Chancellor of Justice as an NHRI and commends its efforts to promote and protect human rights in Estonia.’
Assessment of implementation by CoE independent bodies	<i>ECRI Report on Estonia 2022, p. 8 (Para.6)</i> ‘In this regard, ECRI welcomes the fact that the Chancellor of Justice received the A-status accreditation in December 2020, which signifies full compliance under the United Nations (UN) Paris Principles.’

<p>Principle 2</p>	<p>Member States should provide a firm legal basis for NHRIs, preferably at the constitutional level, and/or in a law which defines the mandates and functions of such institutions, guarantees their independence and provides them with the means necessary to accomplish their functions effectively, both at national and international levels, bearing in mind existing standards and recommendations on NHRIs, in particular the Paris Principles and their interpretation developed by GANHRI's Sub-Committee on Accreditation.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>'The NHRI has a constitutional basis' [...] The national regulatory framework applicable to the institution has not changed since the 2021 report.'</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>The institution of the Chancellor of Justice (NHRI) was established based on Chapter 12 'The Chancellor of Justice' of the Constitution of the Republic of Estonia. The powers, duties and working processes of the Chancellor are specified in the Chancellor of Justice Act (CoJA).</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Estonia, 2022, p. 8 (Para.6)</i></p> <p>'The competences of the Chancellor of Justice as an equality body are provided for in Articles 19 and 35⁵ -35¹⁶ of the Chancellor of Justice Act.'</p> <p><i>CoE Commissioner Report on Estonia 2018, p.25 (Para.82)</i></p> <p>The Chancellor of Justice is an independent institution established by the Constitution, which enjoys wide ranging powers and resources.</p>

II. Strengthening of NHRIs

<p>Principle 3.1</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor and analyse the human rights situation in the country, publish reports on these findings and address recommendations to public authorities at national, regional and local levels and, when applicable, to private entities, and present an annual report to the relevant authorities, including before parliament, for its consideration.
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The Constitution and the Chancellor of Justice Act (CoJA) give the Chancellor of Justice a broad mandate to perform their duties.</p> <p>CoJA § 1 (10) enacts that the Chancellor of Justice performs the functions of protection and promotion of human rights on the basis of the UN General Assembly Resolution No 48/134 of 20 December 1993 (i.e. Paris Principles). This provision is interpreted as broadly as possible, and the Chancellor of Justice performs the task throughout their mandate.</p> <p>The Chancellor of Justice reviews the acts of general application of the legislature and the executive and of municipalities for conformity with the Constitution and laws. The Chancellor of Justice also analyses proposals made to them concerning the amendment of laws, the adoption of new laws, and the activities of state agencies (i.e. all persons performing public duties), and, if necessary, shall present a report to the Riigikogu (Constitution § 139; CoJA § 1 (1)-(2); CoJA § 19 (1)). CoJA §1 (6)</p>

	<p>specifies that the Chancellor also exercises supervision over conformity of legal acts with international treaties.</p> <p>The Chancellor of Justice can initiate constitutional review proceedings based on an application or on own initiative (CoJA § 15). Where the Chancellor of Justice finds that any act of general application is in full or in part contrary to the Constitution or the law, they propose to the body which passed the act that the act or a provision thereof be brought into conformity with the Constitution and the law within 20 days. If the Chancellor’s proposal is ignored, they shall propose to the Supreme Court to declare the act invalid (Constitution § 142, CoJA §§ 17-18).</p> <p>CoJA Chapter 4 sets out that the Chancellor of Justice exercises supervision over observance of fundamental rights and freedoms and good administrative practice. The Chancellor can supervise the activities of all persons (both public and private) performing public tasks based on an application or own initiative. Everyone has also the right of recourse to the Chancellor of Justice for the conduct a conciliation procedure where they find that a natural person or a legal person in private law has discriminated against them. In this case, the Chancellor can start proceedings only based on an application and both parties’ consent.</p> <p>The Chapter 4 also provides that in the course of proceedings in a case, the Chancellor of Justice has unrestricted access to documents and other materials and places which are in the possession of the agencies under supervision and the parties to conciliation proceedings.</p> <p>According to CoJA § 35¹, proceedings are completed when the Chancellor of Justice formulates their position, assessing whether the activities of the agency under supervision are legal and in compliance with good administrative practice. The Chancellor of Justice may provide criticism, suggestions and express their opinion in other ways or make proposals for elimination of the violation. The position of the Chancellor of Justice is communicated in writing to the petitioner and</p>
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	<p>the agency under supervision which participated in the proceedings. The position is final and cannot be contested in court.</p> <p>The Chancellor of Justice may disclose the content of a petition concerning which proceedings are conducted and the final result of the proceedings in the media or through other channels without disclosing any information which would allow the persons involved to be identified. (CoJA § 32)</p> <p>Based on the Constitution § 141 and CoJA § 2, the Chancellor of Justice may participate in sittings of the Riigikogu and sessions of the Government of the Republic with the right to speak.</p> <p>Constitution § 143 and CoJA § 4 enact that the Chancellor of Justice's shall present an annual report to the Riigikogu once a year.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Estonia 2022, p. 8 (para.7)</i></p> <p>The Chancellor issues statements after she or he reviews complaints, in which she or he expresses her or his opinion and makes proposals for the elimination of the violation.'</p>
<p>Principle 3.2</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - freely address public opinion, raise public awareness on human rights and carry out education and training programmes;

<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>According to the CoJA §1 (10), the Chancellor of Justice performs the functions of protection and promotion of human rights. This provision is interpreted as broadly as possible. The Constitution and the CoJA also provide the Chancellor of Justice ample opportunities to organize their work and publicize their statements (e.g. Constitution § 141, CoJA §§ 20 and 32, etc.). Besides, the CoJA 35¹⁶ gives to the Chancellor a special role in the promotion of principles of equality and equal treatment</p>
<p>Principle 3.3</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <p>- fully address all alleged human rights violations by all administrative authorities, other relevant State entities and, when applicable, private entities</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>According to the CoJA §1 (10), the Chancellor of Justice performs the functions of protection and promotion of human rights. The Constitution and the Chancellor of Justice Act (CoJA) give the Chancellor of Justice a broad mandate to address human rights violations through constitutional review, resolution of petitions, and raising people's awareness.</p> <p>Within the constitutional review, the Chancellor of Justice can make a proposal to bring the legislation into line with the Constitution and laws, and if the proposal is not implemented, appeal to the Supreme Court (Constitution § 142; CoJA §§ 17-18).</p>

	<p>Based on § 19 (1) of the CoJA, the Chancellor of Justice can supervise the activities of all persons performing public tasks. The Chancellor of Justice also supervises the activities of natural persons and legal persons in private law and conducts conciliation proceedings on the basis of petitions filed by persons who find that they are discriminated against (CoJA § 35⁵).</p> <p>In matters of protection of fundamental rights, the Chancellor of Justice can submit a report to the Riigikogu (Constitution § 139 (2); CoJA § 1 (2)), provide criticism, suggestions and express their opinion in other ways or make proposals for the elimination of the violation (CoJA § § 35¹), and disclose the content of a petition concerning which proceedings are conducted and the final result of the proceedings in the media or through other channels without disclosing any information which would allow the persons involved to be identified (CoJA § 32 (1)). In conciliation proceedings to resolve discrimination disputes, the Chancellor of Justice makes a proposal to resolve the dispute and enter into an agreement (CoJA § 35¹²).</p> <p>Based on the Constitution § 141 and CoJA § 2, the Chancellor of Justice may participate in sittings of the Riigikogu and sessions of the Government of the Republic with the right to speak.</p>
<p>Principle 3.4</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - have unfettered access to all relevant premises, including places of deprivation of liberty, and to all relevant individuals, in order to be able to carry out a credible examination of all issues covered by their mandate and to all relevant information, subject to possible restrictions stemming from the protection of other rights and legitimate interests and with due respect for the confidentiality of information obtained;

<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, 2022, p. 2</i></p> <p>‘The Chancellor of Justice has unrestricted access to documents, other materials and areas, which are in the possession of the agencies under supervision (para. 27 of the Chancellor of Justice Act). Agencies and persons shall enable the Chancellor of Justice unconditional and immediate opportunity to receive all documents and other materials in the possession of the agencies and persons and access to relevant places.’</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>In addition, the Chancellor of Justice has the right by virtue of office to access state secrets and classified information of foreign states in order to perform duties which have been assigned to them by the Constitution or laws of the Republic of Estonia and by legal acts issued on the basis thereof (CoJA § 11¹ (1)).</p> <p>According to the CoJA § 1 (7), the Chancellor of Justice is the national preventive mechanism provided for in Article 3 of the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>CPT Report on Estonia 2017, p. 10 (para.9)</i></p> <p>In this capacity, it had conducted around 35 visits to a variety of places of detention in 2016 (prisons, police stations, social care homes, institutions for children, psychiatric or military establishments, etc.). During the same year, the Office of the Chancellor of Justice had received approximately 500 communications from persons deprived of their liberty, mostly from the prisons.’</p>

<p>Principle 3.5</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - monitor existing and draft policies and legislation with human rights implications before, during and after their adoption in order to advise the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by making relevant and concrete recommendations.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>‘The Chancellor can also make observations when a draft legislation has serious constitutionality issues.’</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>The Chancellor of Justice reviews the acts of general application of the legislature and the executive and of municipalities for conformity with the Constitution and laws. The Chancellor of Justice also analyses proposals made to them concerning the amendment of laws, the adoption of new laws, and if necessary, shall present a report to the Riigikogu (Constitution § 139; CoJA § 1 (1-2)). CoJA §1 (6) specifies that the Chancellor also exercises supervision over conformity of legal acts with international treaties.</p> <p>The Chancellor of Justice can make a proposal to bring the legislation into line with the Constitution and laws, and if the proposal is not implemented, appeal to the Supreme Court (Constitution § 142;</p>

	<p>CoJA §§ 17-18). The more precise tasks of the Chancellor of Justice in this area are set out in Chapter 3 of the CoJA.</p> <p>Based on the Constitution § 141 and CoJA § 2, the Chancellor of Justice may participate in sittings of the Riigikogu and sessions of the Government of the Republic with the right to speak. The Chancellor of Justice has used this opportunity, among other things, to draw attention to the possible contradiction of the bills with the Constitution and laws. Bills are also often sent to the Chancellor of Justice for an opinion, but they can also be viewed on the website of the drafts information system of the Riigikogu.</p> <p>Additionally, the Chancellor of Justice replies to interpellations of members of the Riigikogu (CoJA § 3).</p>
<p>Principle 3.6</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - contribute to an effective justice system for all, through awareness-raising measures and facilitating access to rights and remedies and, as applicable, by providing legal assistance, being a party before the courts or, when applicable, receiving individual complaints;
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>'has the mandate to contribute to access to justice for individuals, including through complaints handling and carrying out awareness-raising.'</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 6</i></p>

'The Chancellor comes into contact with the work of the courts in three ways. The Chancellor of Justice is a member of the Council for Administration of Courts; the Chancellor may initiate disciplinary proceedings in respect of all judges, and the Chancellor prepares an opinion for the Supreme Court in constitutional review court proceedings. By virtue of office, the Chancellor serves on the Council for Administration of Courts, which convened for a session twice in the second half of 2020 and four times in the first half of this year (all four sessions were held online).

Information Provided by the NHRI in 2023

The Chancellor of Justice can resolve complaints in matters of constitutional review (CoJA § 15 (1)), protection of fundamental rights and good administrative practice (CoJA § 19 (1)), and discrimination issues (CoJA § 19 (2)). However, no court judgments, court orders on termination of misdemeanour proceedings or judicial proceedings or decisions of bodies conducting extra-judicial proceedings in misdemeanour proceedings may have entered into force in the matter of the petition, and at the time of filing the petition the matter may not be subject to court proceedings, offence proceedings or mandatory pre-trial complaint proceedings (CoJA § 25 (2)).

The procedure for participation of the Chancellor of Justice and their rights in the constitutional review proceedings are provided by the CoJA Chapter 3 and the Constitutional Review Court Procedure Act. The Chancellor of Justice can also initiate the supervision of the constitutionality of laws concerning the work of the courts if they find that the law is unconstitutional.

The composition of the Council for Administration of Courts and Chancellor's right to take part of its meetings is stipulated in the Courts Act § 40 (1).

The Chancellor's right to initiate disciplinary proceedings against a judge is specified in the Courts Act § 91 ff. Based on the CoJA Chapter 4, the Chancellor of Justice may also make recommendations

	<p>to the courts if they find that courts have violated fundamental rights and freedoms, and good administrative practice.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Estonia 2022, p. 8 (para.7)</i></p> <p>‘Furthermore, as a quasi-judicial body, it also has the competence to arrange for conciliation proceedings in discrimination disputes between persons governed by private law’</p> <p><i>CPT Report on Estonia 2017, p. 36 (para.87)</i></p> <p>‘Further, prisoners could in principle lodge complaints with external bodies, in particular to the relevant Prison Committee and the Chancellor of Justice (Ombudsman). That said, a number of prisoners interviewed by the delegation appeared to be unaware of the existence of such complaints procedures. The CPT reiterates its recommendation that measures be taken in all prisons to provide prisoners with the necessary information, in a language they understand, on all existing external complaints mechanisms.’</p>
<p>Principle 3.7</p>	<p>Member States should ensure that the mandate given to NHRIs to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> - encourage the signature, ratification of and accession to international human rights treaties and contribute to the effective implementation of such treaties, as well as related judgments, decisions and recommendations as well as to monitor States’ compliance with them.

<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Constitution § 3 stipulates that generally recognised principles and rules of international law are an inseparable part of the Estonian legal system. If laws or other acts of Estonia are in conflict with international treaties ratified by the Riigikogu, the provisions of the international treaty shall be applied (Constitution § 123 (2)). This means that the Chancellor of Justice must also base its work on this principle and has the right to supervise whether international standards have been followed. In addition, the CoJA § 1 (6) emphasises separately, that the Chancellor of Justice can exercise supervision over conformity of legal acts with international treaties. Besides, the CoJA § 1 (10) gives to the Chancellor general mandate to protect and promote human rights.</p> <p>The Chancellor of Justice also often refers to decisions of European courts and international human rights standards in their opinions and recommendations (e.g. in the recommendation to the Estonian Police and Border Guard Board on conditions in the detention centre).</p> <p><i>Written contribution of the Estonian Chancellor of Justice (NHRI) for the Universal Periodic Review (3rd cycle) of Republic Estonia; 15 October 2020, p. 2-5:</i></p> <p>‘Recommendations for the State: Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.’ /.../</p> <p>‘Ratify Optional Protocol to the Convention on the Rights of the Child on a communications procedure.’</p> <p><i>Report of Chancellor of Justice of the Republic of Estonia on implementation of UN Convention on the Rights of the Child, November 2015, page 10:</i></p> <p>‘Recommendation for the state:</p>
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	- to ratify Optional Protocol 3 to the CRC.'
Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI	<p><i>SCA Report December 2020, p. 11</i></p> <p>The Act does not explicitly mandate the Chancellor of Justice to encourage ratification of and accession to regional and international human rights instruments. However, the SCA acknowledges that the Chancellor of Justice interprets its mandate broadly and carries out activities in this regard in practice, and it encourages the institution to continue to do so. The SCA is of the view that encouraging ratification of, or accession to, international human rights instruments, and the effective implementation of those instruments to which the State is a party, are key functions of an NHRI. The Paris Principles further prescribe that NHRIs should promote and encourage the harmonization of national legislation, regulations, and practices with these instruments. The SCA therefore considers it important that these duties form part of the enabling legislation of an NHRI. The SCA encourages the Chancellor of Justice to advocate for an appropriate legislative amendment to make this mandate explicit.'</p>
Principle 4	<p>The process of selection and appointment of the leadership of a NHRI should be competence based, transparent and participatory, in order to guarantee the independence and pluralist representation of these institutions. It should also be based on clear, predetermined, objective and publicly accessible criteria.</p> <p>The duration of the appointment should be clearly set out in the founding legislation, so that the leadership posts of the NHRI do not stay vacant for any significant period of time.</p>
Assessment of implementation by the NHRI	<i>Information provided by the NHRI in 2023</i>

According to the Constitution § 140, the Chancellor of Justice shall be appointed to office by the Riigikogu, on the proposal of the President of the Republic for a term of seven years. The Chancellor of Justice can be removed from office only by a court judgment.

The CoJA § 6 specifies that the Chancellor of Justice must be an Estonian citizen who has active legal capacity, is of high moral character and is fully proficient in the official language. The Chancellor of Justice must have completed an academic education in law and he they must be an experienced and recognised lawyer. Candidate for Chancellor of Justice must pass security check (CoJA § 6¹). The Chancellor of Justice cannot participate in any activities of political parties (CoJA § 12 (1) (2)).

Based on the Act on Rules Governing the Work of the President of the Republic § 20 (2) and (3), the President makes a proposal to the Riigikogu regarding the appointment at the latest 30 working days before due expiry of the Chancellor's mandate. Where the mandate of the Chancellor expires prematurely, the President makes a proposal to the Riigikogu regarding the corresponding appointment within four months following such expiry.

The President of the Republic is an independent non-political body, which plays an important role in ensuring that selecting and appointing a candidate for the position of Chancellor of Justice is transparent, fair and non-politicized. Estonia's multi-party system also ensures balance when appointing the Chancellor of Justice. The public is usually notified of the end of the term of office of the Chancellor of Justice through the media. The President consults all political parties represented in the Parliament as well as the legal community before submitting a proposal to the Parliament. It is also allowed to notify the President of the desire to run for office (this has also been done in practice). If the Riigikogu does not approve the candidate for Chancellor of Justice, the President must find a new candidate.

	<p>Neither the Constitution nor the CoJA stipulates how many times the same person can be re-nominated as a candidate for Chancellor of Justice. However, re-appointment is not an automatic decision and the same appointment rules apply as for the first time.</p> <p>In addition to the Chancellor of Justice, the Head of NHRI activities coordinates NHRI-related activities in the Office of the Chancellor of Justice. Based on § 141 of the Constitution, § 36 of CoJA, and the Civil Service Act, the Head of NHRI activities is selected through a public competition. He or she is appointed by the Chancellor of Justice.</p>
<p>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</p>	<p><i>SCA report December 2020, p. 10</i></p> <p>‘Chapter 2, article 3 of the Act establishes that the Chancellor of Justice shall be appointed by the Parliament on the proposal of the President of the Republic. The Chancellor of Justice reports that, in practice, before submitting a proposal to the Parliament, the President consults all political parties represented in the Parliament as well as the legal community. The SCA is of the view that the process enshrined in the Act is not sufficiently broad and transparent. In particular, it does not: require the advertisement of vacancies for members; and - specify the process for achieving broad consultation and/or participation in the application, screening, selection and appointment process.’ [...] ‘The SCA encourages the Chancellor of Justice to advocate for the formalization and application of a process that includes requirements to: a) Publicize vacancies broadly; b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications; c) Promote broad consultation and / or participation in the application, screening, selection and appointment process; d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.’</p> <p><i>SCA Report December 2020, p. 10</i></p>

	<p>'According to Chapter 2, article 3 of the Act, the Chancellor of Justice shall be elected for a 7-year term. The Act is silent on the number of times the Chancellor can be re-appointed, which leaves open the possibility of unlimited tenure. In order to promote institutional independence, the SCA is of the view that it would be preferable for the term of office to be limited to one (1) re-appointment. The Chancellor of Justice reports that, in the past, re-appointment has not occurred. Nevertheless, the SCA encourages the Chancellor to advocate for amendments to its enabling law to provide for such limits on the term of office.'</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>ECRI Report on Estonia 2022, p. 8</i></p> <p>'The Chancellor of Justice is appointed by the Parliament and is independent in his or her decision-making.'</p>
<p>Principle 5</p>	<p>To ensure independence, the enabling legislation of a NHRI should contain an objective dismissal process for the NHRI leadership, with clearly defined terms in a constitutional or legislative text. The dismissal process should be fair and ensure objectivity and impartiality and should be confined to only those actions which impact adversely on the capacity of the leaders of NHRIs to fulfil their mandate.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>'The Chancellor of Justice may be removed from office by a court judgment only (paragraph 140 of the Constitution) and criminal charges may be brought against the Chancellor only on the proposal of the President and with the consent of the majority of the Parliament (paragraph 145 of the Constitution and paragraph 11 of the Chancellor of Justice Act).</p> <p><i>Information Provided by the NHRI in 2023</i></p>

	<p>Additionally, the CoJA § 8 stipulates that the mandate of the Chancellor of Justice is deemed to be terminated:</p> <ol style="list-style-type: none"> 1) as of the date of expiry of the seven-year term; 2) as of the date of their resignation from office; 3) as of the date of entry into force of a judgment of the Supreme Court en banc in the case of their permanent incapability to perform their duties for more than six consecutive months; 4) as of the date of entry into force of a judgment of conviction against them for an intentionally committed criminal offence; 5) as of the date of entry into force of a judgment of conviction against them which prescribes imprisonment for a criminal offence committed due to negligence; 6) upon their death.
<p>Principle 6</p>	<p>Member States should provide NHRIs with adequate, sufficient and sustainable resources to allow them to carry out their mandate, including to engage with all relevant stakeholders in a fully independent manner and freely determine their priorities and activities.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The institution of the Chancellor of Justice has almost every year received additional funds in the budget to fulfil its duties (e.g. in 2022 the institution was granted additional 120.000 euros, while in 2023 – 320.000 euros). The Chancellor of Justice also received additional funds when the roles of NHRI, NPM, ombudsman for children, etc. were added to the Chancellor's mandate.</p> <p>It is worth noting, though, that a draft law amending the State Budget Act has been prepared to foresee for the Chancellor of Justice and other independent constitutional institutions (e.g. the President of the Republic, the National Audit Office, the Supreme Court, etc.) a special annual budget application procedure. The purpose of this is to ensure the greater budgetary independence of these</p>

	<p>institutions from the Government of the Republic, who is generally responsible for drafting the State's annual budget. However, the draft act has not reached the Riigikogu proceedings yet. The institution of the Chancellor of Justice has almost every year received additional funds in the budget to fulfil its duties (e.g. in 2022 the institution was granted additional 120.000 euros, while in 2023 – 320.000 euros). The Chancellor of Justice also received additional funds when the roles of NHRI, NPM, ombudsman for children, etc. were added to the Chancellor's mandate.</p> <p>It is worth noting, though, that a draft law amending the State Budget Act has been prepared to foresee for the Chancellor of Justice and other independent constitutional institutions (e.g. the President of the Republic, the National Audit Office, the Supreme Court, etc.) a special annual budget application procedure. The purpose of this is to ensure the greater budgetary independence of these institutions from the Government of the Republic, who is generally responsible for drafting the State's annual budget. However, the draft act has not reached the Riigikogu proceedings yet.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>CoE Commissioner Report on Estonia, 2018, p.31 (Para.113)</i></p> <p>The Commissioner urges the authorities to adapt the resources available to the Chancellor of Justice as needed, to enable that institution to effectively carry out its new functions as NHRI and monitoring body under the CRPD. She urges the authorities to maintain the strong role of the Chancellor and defend against any attempts to weaken the institution.</p> <p><i>CoE Commissioner report on Estonia, 2018, p.25 (Para. 84)</i></p> <p>The Commissioner was informed that the Chancellor's office continues to be well resourced, with over 50 staff. Until now, the successive expansions of the mandate have been met with additional funds</p>

<p>Principle 7</p>	<p>NHRIs should have the authority to determine their staffing profile and recruit their own staff, as well as sufficient resources available, in order to fulfil their mandate, so as to permit the employment and retention of staff and to ensure that they receive adequate training.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>According to the Constitution § 141, the Chancellor of Justice, in heading his or her office, has the same rights that are granted by the law to a minister for heading a ministry. The CoJA § 36 (2) specifies that the Chancellor of Justice as the head of the Office of the Chancellor of Justice establishes the statutes, structure and positions of the Office and its structural units and may establish the classification of the positions into service groups.</p> <p>The Chancellor of Justice also establishes the requirements for the education, work experience, knowledge and skills of officials which are required for the performance of their duties and the procedure for the recruitment, choice, assessment, development and training of officials (CoJA § 36 (2¹)).</p> <p>On the proposal of the Chancellor of Justice, the Riigikogu appoints up to two advisers to the Chancellor of Justice to the position of the Deputy Chancellor of Justice-Adviser (CoJA § 37 (1)). Other advisers are recruited through a public competition based on the Civil Service Act and are appointed to the office by the Chancellor of Justice. Supporting staff is recruited through a public competition based on the Employment Contracts Act.</p> <p>The budget of the Office of the Chancellor of Justice is approved by the Chancellor of Justice based on the yearly state budget (CoJA § 42 (1)).</p>

<p>Assessment of implementation by CoE independent bodies</p>	<p><i>See Recommendation 6 on sufficient, adequate and sustainable resources.</i></p> <p><i>ECRI Report on Estonia 2022, p. 8 (para.6)</i></p> <p>'Chancellor's Office has a budget of its own'</p>
<p>Principle 8</p>	<p>Member States should ensure that NHRIs enjoy adequate access to information and to policy makers and legislators, including timely consultations on the human rights implications of draft legislation and policy strategies.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Based on the Constitution § 141 (2) and CoJA § 2, the Chancellor of Justice may participate in sittings of the Riigikogu and sessions of the Government of the Republic with the right to speak. Accordingly, the Riigikogu Rules of Procedure and Internal Rules Act § 71 stipulates that the chair of the sitting grants permission for the presentation of a comment, where possible taking into consideration the wishes of the Chancellor of Justice. The Government of the Republic Act § 17 (2) adds that the State Secretary shall notify, in a timely manner, the Chancellor of Justice of the time and agenda of the session of the Government of the Republic.</p> <p>Besides, the Chancellor of Justice has the right to request information necessary for the performance of their duties. Agencies under supervision, parties to conciliation proceedings, other persons and agencies communicate such information within the term set by the Chancellor of Justice (CoJA § 28). The Chancellor of Justice may also request that agencies under supervision and parties to conciliation proceedings submit written explanations concerning a petition. Agencies and persons comply with such demand within the term prescribed by the Chancellor of Justice. (CoJA § 29)</p> <p>Besides, in the course of proceedings, the Chancellor of Justice may take testimonies from persons</p>

	<p>concerning whom there is information that they know facts relevant to the case and are capable of providing truthful testimonies concerning such facts (CoJA § 30).</p> <p>In the course of proceedings in a case, the Chancellor of Justice has unrestricted access to documents and other materials and places which are in the possession of the agencies under supervision and the parties to conciliation proceedings. Agencies and persons enable the Chancellor of Justice unconditional and immediate opportunity to receive all documents and other materials in the possession of the agencies and persons and access to relevant places (CoJA § 27 (1)).</p> <p>Once a year, the Chancellor of Justice submits an annual report to the Riigikogu and presents it in front of the assembly of the Riigikogu (Constitution § 143, CoJA § 4).</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>COE Commissioner Report on Estonia 2018, p.25 (Para.82)</i></p> <p>The Chancellor may also attend and speak at sessions of the parliament and all cabinet meetings of the government. This is a significant power, which gives her the opportunity to advise national authorities on human rights matters in a timely manner. The Chancellor submits an annual report to the Riigikogu.</p>

<p>Principle 9</p>	<p>Member States should implement the recommendations of NHRIs and are encouraged:</p> <ul style="list-style-type: none"> - to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame, - to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and - include information thereon in their relevant documents and reports.
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.2</i></p> <p>‘The addressees of the NHRI’s recommendations are legally obliged to provide a timely and reasoned reply and overall the recommendations are usually taken into account’</p> <p><i>Information provided by the NHRI for ENNHRI's report State of the Rule of Law in the European Union 2023</i></p> <p>Besides, the Chancellor of Justice made 80 recommendations to the state and local authorities to adhere to the principles of legality and good administration. In general, these recommendations are taken into consideration and followed by the authorities. However, some recommendations requiring significant financial resources are still awaiting an effective follow-up by state authorities.</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>‘Estonian Parliament has the right to invite members of the Government and other representatives of the executive power to report on various topics and may also raise those issues in which the</p>

Chancellor of Justice has given recommendations, but it is rather exceptional and not active or regular supervision of how the executive power fulfils these recommendations. We primarily monitor the implementation of the Chancellor of Justice's recommendations and proposals ourselves and, if necessary, demand answers from the executive power. However, the Parliament carefully monitors the implementation of the proposals on legislation that the Chancellor of Justice has addressed to the Parliament.'

The Constitution § 142 and the CoJA §§ 17-18 stipulate that if the Chancellor of Justice finds that an act of general application adopted by the legislature or the executive or by a municipality is in conflict with the Constitution or a law, he or she shall propose to the body which adopted the act to bring the act into conformity with the Constitution or the law within 20 days. If Chancellor's proposal is ignored, the Chancellor can turn to the Supreme Court with a request to declare the legislation invalid.

According to the Riigikogu Rules of Procedure and Internal Rules Act § 56 (1) (7), a proposal from the Chancellor of Justice to bring an Act or a resolution of the Riigikogu into conformity with the Constitution of the Republic of Estonia or an Act, must be inserted for deliberation in the Riigikogu at the earliest opportunity.

Pursuant to CoJA § 35², in the fundamental rights and freedoms, and good administration matters, an agency who receives a suggestion or proposal from the Chancellor of Justice informs the Chancellor of Justice, within the term set by them, of the details of compliance with the suggestion or proposal. The Chancellor of Justice has the right to make inquiries concerning compliance with their suggestions and proposals. An agency who receives an inquiry responds without delay. Where a suggestion or proposal of the Chancellor of Justice is not complied with or an agency fails to respond to an inquiry of the Chancellor of Justice, the Chancellor of Justice may report such fact to the authority which exercises supervision over the agency, the Government of the Republic or the

	<p>Riigikogu. The Chancellor of Justice may inform the public of their suggestions or proposals and compliance or failure to comply therewith.</p> <p>Based on CoJA § 32 (1), the Chancellor of Justice may disclose the content of a petition concerning which proceedings are conducted and the final result of the proceedings in the media or through other channels without disclosing any information which would allow the persons involved to be identified.</p> <p>In conciliation proceedings for resolution of discrimination disputes, performance of an agreement approved by the Chancellor of Justice is mandatory to the parties to conciliation proceedings. An agreement is performed within 30 days as of the day following the day on which a copy of the agreement is received, unless another term is prescribed in the agreement. Where an agreement is not performed within the term, the petitioner or respondent may submit the agreement approved by the Chancellor of Justice to an enforcement agent for enforcement pursuant to the procedure provided by the Code of Enforcement Procedure. (CoJA § 35¹)</p> <p>The Chancellor of Justice presents an annual report to the Riigikogu once a year on the performance of the duties assigned to them (Constitution § 143; CoJA § 4). They may present to the Riigikogu also other reports (Constitution § 139 (2); CoJA § 1 (2)).</p>
<p>Principle 10</p>	<p>When member States grant NHRIs additional competences to perform functions foreseen by international conventions in the field of human rights, such as the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Convention on the Rights of Persons with Disabilities, the NHRI should have access to sufficient resources to develop the capacity to effectively discharge its functions, including having appropriately qualified and trained staff.</p>

<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>In addition to fulfilling the duties of the NHRI, the Chancellor of Justice:</p> <ul style="list-style-type: none"> - is the national preventive mechanism provided for in Article 3 of the Optional Protocol of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CoJA § 1 (7)); - performs the functions of protection of the rights of children and promotion thereof according to Article 4 of the Convention on the Rights of the Child (CoJA § 1 (8)); - based on Article 33(2) of the Convention on Rights of Persons with Disabilities, performs the functions of promoting the implementation, protection and monitoring of the Convention (CoJA § 1 (11)). <p>By adding these tasks, additional funds were allocated to the budget of the Chancellor of Justice. Also, the institution of the Chancellor of Justice has almost every year received additional funds in the budget to fulfil its duties (e.g. in 2022 the institution was granted additional 120.000 euros, while in 2023 – 320.000 euros).</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>See Recommendation 6 on sufficient, adequate and sustainable resources.</i></p> <p><i>CPT Report on Estonia 2017, p. 10 (Para.9)</i></p> <p>‘The CPT welcomes the fact that, following a specific proposal made by the Committee in the 2012 visit, a separate unit had been set up within the Office of the Chancellor of Justice, to be responsible for the NPM functions. [...] However, there was no separate budget for NPM activities and it remained the case that the staff assigned to the NPM unit were also involved in the processing of complaints. In this connection, the CPT recalls the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture (SPT) 2 in 2010, which specify</p>

	<p>that “[w]here the body designated as the NPM performs other functions in addition to those under the Optional Protocol, its NPM functions should be located within a separate unit or department, with its own staff and budget”. Further, in the CPT’s experience, it is not advisable to involve staff dealing directly with complaints in the work of the NPMs. Where the same institution is designated to handle complaints and to monitor places of deprivation of liberty, both functions should preferably be kept separate and performed by clearly distinct entities. The CPT invites the Estonian authorities to review the organisation and functioning of the NPM in the light of the preceding remarks.’</p>
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III. Safe and Enabling Environment

<p>Principle 11</p>	<p>Member States should ensure that NHRIs can operate independently, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of impartiality, integrity, transparency and fairness.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>‘Para. 35, subsection 2 of the CoJA provides that the Chancellor of Justice has the right to apply for commencement of disciplinary proceedings against officials who obstruct the activities of the Chancellor of Justice or his or her advisers.’</p> <p>Obstruction of the activities of the Chancellor of Justice means:</p> <ol style="list-style-type: none"> 1) concealment of information from the Chancellor of Justice which is necessary for the performance of their duties, evading vision of such information and refusal to provide such information without good reason; 2) evading vision of expansion or testimony, or refusal to provide expansion or testimony without good reason; 3) provision of insufficient or incorrect planning, testimony or information; 4) hindrance of unrestricted access. <p>So far, this section has not had to be implemented in practice.</p> <p><i>Information Provided by the NHRI in 2023</i></p>

	<p>The Chancellor of Justice’s independence and autonomy in their activities is stipulated in § 139 of the Constitution and § 1 of the CoJA. In practice there have not been cases where the executive or other powers have not respected the constitutionally guaranteed independence of the Chancellor of Justice.</p> <p>The Chancellor of Justice may start proceedings on own initiative (except in conciliation proceedings to resolve discrimination disputes) (CoJA §§ 15 (2) and 34).</p> <p>Unless the form and other details of a procedural act are provided by law, the form and details of procedural acts are determined by the Chancellor of Justice based on the principles of purposeful, efficient, straightforward performance without undue delay, avoiding superfluous costs and inconveniences to persons (CoJA § 20 (1)).</p> <p>During proceedings in a case, the Chancellor of Justice establishes the facts relevant to the case and, where necessary, collects evidence on their own initiative (CoJA § 21 (1)). The Chancellor of Justice may disclose the names of persons who refuse to give testimony without good reason (CoJA § 32 (2)).</p>
<p>Principle 12</p>	<p>Member States should foster awareness and the co-operation of all relevant public authorities in relation to the mandate, independence and role of NHRIs, including through training and awareness-raising activities.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>‘The relevant state authorities have good awareness of the NHRIs’ mandate, independence and role.’</p>

<p>Principle 13</p>	<p>Member States should take all measures necessary to protect and support NHRIs against threats and harassment and any other forms of intimidation, including through ensuring functional immunity. Any cases of alleged reprisals or intimidation against NHRIs, their membership and staff, or against those who co-operate or seek to co-operate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>‘Threats and harassment and any other forms of intimidation against the NHRI, heads of institution and staff are dealt with in accordance with applicable criminal law provisions.’</p> <p><i>Please, see also recommendation 11</i></p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>In the case of obstruction, the Chancellor of Justice has the right to apply for commencement of disciplinary proceedings against officials who obstruct the activities of the Chancellor of Justice or their advisers. The Chancellor of Justice may inform the public of obstruction of their activities. (CoJA § 35) The Chancellor of Justice also may disclose the names of persons who refuse to give testimony without good reason (CoJA § 32 (2)).</p>
<p>Principle 14</p>	<p>Member States should ensure that confidential information collected by NHRIs in the context of their mandate is privileged and is not unduly made public.</p>
<p>Assessment of implementation by the NHRI</p>	<p><i>Information Provided by the NHRI in 2023</i></p>

	<p>The field is regulated by the GDPR, the Personal Data Protection Act, and the Public Information Act. In addition to the Chancellor of Justice, the Data Protection Inspectorate supervises the observance of the principles of these laws.</p>
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IV. Co-operation and Support

<p>Principle 15</p>	<p>Member States should take effective measures to enable NHRIs to communicate and co-operate with, in addition to the various levels of administration in the member States, in particular:</p> <ul style="list-style-type: none"> a. counterpart institutions, where appropriate through networking and exchange of information and practices, as well as through regular meetings such as those taking place within the framework of ENNHRI and GANHRI; b. civil society stakeholders, in particular non-governmental organisations and human rights defenders, who should enjoy easy and safe access to NHRIs as part of an enabling environment; c. other human rights structures, including regional, local and/or specialised institutions, notably Ombudsman institutions and equality bodies and their respective networks, where appropriate through jointly organised activities; d. international and regional organisations working in related or similar fields.
<p>Assessment of implementation by the NHRI</p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The Chancellor of Justice has long-term cooperative relations with their neighbouring countries and other colleagues: regular meetings are held with Nordic and Baltic ombudsmen; the Chancellor of Justice is a member of ENNHRI, GANHRI, ENOC, police ombudsmen, military ombudsmen and NPM networks, and the International Ombudsman Institute. The Chancellor of Justice also has good cooperation contacts with other international organizations (e.g. European Ombudsman, CoE High</p>

	<p>Commissioner for Human Rights, Frontex fundamental rights monitors, FRA, SPT, CPT, etc.), and many of them have also visited the Chancellor of Justice during their visits to Estonia.</p> <p>Domestically, the Chancellor of Justice cooperates with the Equality Commissioner, supervisory authorities and other institutions. Cooperation with civil society is carried out both on a case-by-case basis and regularly within the framework of 3 advisory committees established by the Chancellor of Justice - Advisory Committee on Human Rights, Advisory Committee for Persons with Disabilities, and Advisory Committee for Children’s Rights.</p>
<p>Assessment of implementation by CoE independent bodies</p>	<p><i>CoE Commissioner Report on Estonia, 2018 p.31 (Para.114)</i></p> <p>The Commissioner welcomes the fact that, despite potentially overlapping portfolios, the Chancellor of Justice and the Equality Commissioner cooperate closely, exchange information regularly, and focus on complementary topics in order to avoid duplication. She notes that this approach reinforces the important contribution of both structures to the promotion and protection of human rights in Estonia.</p>