

## Summaries in English

### EDITOR'S COLUMN

#### *The tenth anniversary of the Constitution*

*Aivar Jarne, Editor in Chief, the Riigikogu Toimetised*

Many events during the restoration of independence era are worthy of remembrance and commemoration, but three have proved to be chief among them. They are closely tied with one another and it would be wrong to view them separately.

Of course one of these is the restoration of independence on August 20, 1991. This date ties in directly with the constitution, since the second paragraph of the decision to restore independence states that a Constitutional Assembly would be formed to draft a constitution for referendum, with its members picked by the Supreme Council and the Congress of Estonia.

The second key moment was the ratification of the new constitution in June 1992, which along with monetary reform gave a major impetus toward freeing Estonia from the Soviet legacy. With more than 91% approval, the nation gave notable recognition to the constitution as well as to its creators.

Three months after the referendum, parliamentary and presidential elections with a 68% turnout put the final seal on the establishment of the newly independent state. The foundation for sovereignty had been created and consolidation of the nation continued on its natural course.

One of the main themes of this issue of RITO is the Estonian constitution, which celebrates 10 years this June 28. This length of time is a good one to look back as well as ahead. Two large works on the constitution will be published this year. There have been past constitutional retrospectives as well. In 1937 an attractive volume entitled *The Constitution and the National Assembly* appeared; dedicated to the constitution of 1937, it spoke of earlier ones as well. And 1997 saw the publication of a thick comprehensive work, *The Constitution and the Constitutional Assembly*.

The articles give an overview of the media coverage of the work of the Constitutional Assembly and the constitutional debate in 1991 and 1992. It becomes readily apparent with what enthusiasm and expertise the man on the street followed these events alongside the experts, politicians and journalists. Naturally, all opinions on the constitutional assembly's work and its members were not positive ones. A veritable Babel of opinions prevailed, with politicians and experts generally left to defend the constitution-in-progress and the work of the Assembly, and the public to criticise it. The referendum results echoed favourably through the media, but not for long. The presidential and general elections lay a few months ahead, attracting all of the media's attention.

The Estonian people showed considerable perseverance, wisdom and civic-mindedness ten years ago. Estonia got a constitution that has remained unchanged for ten years. It gives us hope that the principles enshrined in the constitution will pass much more than just this milestone.

ESSAY

### *The nature of power and the power of spirit*

*Rein Ruutsoo, Professor of General Political Science, University of Tartu*

"Power" and "spirit" (or "intellect") are popular metaphors in Estonia in discourse about society. The spirit-power discourse rises to the fore in so-called transition periods, as in the 1880s and the beginning of the last century after the first Russian Revolution, in the latter half of the 1930s and the end of the 1960s. Casting spirit and power as opposing concepts is largely the discourse of protest – a reflection of tense situations, when a whole society's freedom and existence hang in the balance. In all of these periods, important decisions have been made on questions of national survival and continued spiritual growth.

Speaking in the name of spirit is in general the discourse of democracy and civil liberty. At the same time, it implies that freedom is also a moral obligation. In the vise-like grip of the Soviet system, considering spirit and power opposing concepts was one way to talk about politics "apolitically." The spirit was represented by the people; power by the *nomenklatura*. One of the most fascinating problems in studying Estonia and other captive nations is how the spirit of resistance can still survive amid conditions of more or less total censorship. Along with institutions, culture contains permanent structures that are "invisible" to power (foremost in language and thought processes). These preserve important information and are able to recreate it in very complicated semiotic relationships. When spirit and power are in opposition, the latter's possibilities to suppress authentic (moral) culture are mostly limited to formal violence (censorship). Estonia's restoration of independence points to the high resistance that spiritual structures had to conditions of moderate violence (post-Stalinist stagnation) The restoration of independence does not mean the spirit-power problem is now any less significant. The spirit of democracy and the intelligentsia are a product of cultural development, and it takes longer for them to reemerge than the institutionalisation of political power. Democracy matures along with the adoption of democratic traditions and values. The primary requirement of freedom of conscience in a democratic society is transparency of power. Even in a representative democracy, the powers are interested in extending their powers to the maximum and imprinting society ideologically. Ideological pressure could even be more effective in a post-communist society, because its rhetoric does not always allow attitudes and ideas that endanger spirit. Independence of spirit and growth of its importance have three main requirements in a postcommunist society: 1) the renewed re-entrenchment of democratic cultural legacy in education, 2) the transformation of a democratic public into a power to be reckoned with once again and 3) access of civic initiatives to political decision-making.

POLITICAL FORUM

## Local governments

### *Local elections in the post-independence period*

*Jaan Pöör, Member of the Riigikogu, Estonian People's Union*

In the Soviet local council elections, people voted for pre-approved candidates in one-seat districts. The ratification of a declaration of restoration of independence in 1988 allowed a direction to be taken toward renewing local governments. On August 8, 1989, the Supreme Soviet adopted a decision of intent to carry out administrative reform in the Estonian SSR. This decision foresaw reforms lasting from 1990–1994 that would decentralise the power of the people within the republic, clearly separate national and local power, and redraw the lines of territorial governance.

The local elections of 1989 cannot be termed free and democratic; they were transitional elections that opened the door to individuals previously denied the right to participate fully in local affairs. The restoration of the local government system lay ahead. Many local figures saw this as their calling and declared candidacy for council seats for parishes. For the first time in a long time, people without a communist past could take the helm on local councils.

Statistics from subsequent local elections (1993, 1996 and 1999) show that the number of candidates has kept on growing, and thus the number of people who want to actively take part in local development.

For the local elections scheduled for October 20, parliament adopted a new law on local council elections. The biggest change is that election unions were discontinued, placing a larger responsibility on parties. There is no reason to think that the number of candidates will be much fewer, but rather that there will be a shift towards more clarity. Parties will be forced to be more well-developed and open to voters, who will in turn have a better image of the party they are affiliated with.

This autumn's elections are the fifth elections after the end of the occupation period's mandatory and rigged elections. Transition processes from one state to another take place over six periods.

### *The need for reform in local government funding*

*Olev Raju, Member of the Riigikogu, Estonian Centre Party*

The present local government funding system is becoming obsolete. The great differences in income levels and the inexorable growth of the tax-free minimum make rapid and cardinal reform of the system necessary.

Estonia has unconditionally ratified the European charter of local governments, according to which local governments must have sufficient sources of income independent of the central government. There are two methods of covering local government expenditures in use in

Europe – taxing corporate income and real estate. Neither is feasible in Estonia. The situation will not change by decreasing the number of municipal units. Estonia needs to immediately establish a stable system of funding municipalities, without any intermediate steps. In this so-called transition period we will have to make do with modifications to the present system. The main elements of such a system are described. On the agenda as well is matching of the principles of income and expenditure. The local government tax is compatible with additional funding of the expenditure base.

### ***Estonia's regional and local development in the framework of global processes***

***Garrri Raagmaa, Director of Pärnu College, University of Tartu***

The aim of the article is to survey the changes over the last few decades in Estonia's regional economic development and future trends in the wider context of industrialised Western democracies. The article details the main factors that influenced Estonia's regional development and outlines the potential development of the first part of this century.

Estonia's regional development in the 20th century was quite unusual in the world context: it was influenced by globalisation, Estonia's location has resulted in geopolitical and historically-specific cultural factors. During the century of industry, Estonians migrated in search of jobs. The result was urbanisation and three waves of regional development, starting in agrarian southern Estonia and moving into industry-centred northern Estonia and tourism-centred western Estonia. The concentration of business and population into large cities and transit corridors in today's ultraliberal capitalist environment is quite similar to the postwar period.

Technical and community services infrastructure is deteriorating in declining rural areas, making them even less attractive to entrepreneurs and potential residents. There is a danger that socially excluded microcultures will become wider. We need to avoid the economic desertification of rural areas, since the environment there is a resource for the vacation economy. Since the level of local government is mostly small and feeble, the state should strengthen provincial development structures in order to use resources offered by the EU for rural and infrastructure development.

The new social and economic processes that kicked in during transition also launched intensive suburbanisation, which has escaped the control of the public sector in the Tallinn region, with development threatening to destroy natural (beaches) and cultural resources and causing increasing traffic congestion. There is a need for comprehensive planning of land use in larger urban areas and infrastructure to avoid bottlenecks and sprawl, problems that have existed in the West for half a century but which are only now perceptible here.

### **The future of Estonian energy**

#### ***The need for a new energy development plan***

***Heido Vitsur, Adviser to the Minister of Economic Affairs, Transport and Communications***

Despite the fact that a long-term state fuel and energy plan was approved by parliament six years ago, Estonia's energy sector still moves forward amid ambiguities and contradictions. The old plan has simply left too many questions unanswered. Today, Estonia needs a new and more comprehensive and concrete energy plan.

First, the new plan should give a clear picture of what will be undertaken in the next ten years – what will be sought, how and when it will be achieved, what the cost is, and how it will be funded.

Second, the new plan must give a clear answer to the question of how we plan to answer new challenges that Estonian energy will face when we enter the EU and must completely liberalise the energy market in ten years.

Third, we need a clearer plan because experience has shown convincingly that energy is a sector about which the public not only wants to be briefed, but in fact insists on it.

Despite the complexity of this assignment, not everything is completely undefined when it comes to drafting a new plan, since many short-term and in some cases long-term solutions lack serious alternatives in practice. The new energy plan can only proceed from the reality that in the next thirty or forty years Estonia's main source of electricity will be an oil shale-based system that is many times gentler on the environment than the one used currently. The importance of oil shale is based primarily on the long-term situation in the energy market and the investment in our area and second, the very high price of alternative energy. It is also likely that Eesti Energia will continue parallel work with Russia's north-western region's energy systems to maintain frequency and increasing reliability and efficiency; and that it will have only a direct current connection with other EU member states.

### ***The current state of Estonian energy***

***Gunnar Okk, Chairman of the Management Board, Eesti Energia***

In talking about Estonian energy's potential for development, many people from different walks of life have made pronouncements in the media on what is right and what is wrong. But often the actual goal of these edifying words is lost, as is the picture of reality.

Environmental regulations set major restrictions on Estonian energy, especially in Narva power plants. The biggest problem with oil shale plants is sulphur dioxide and particulate emissions, upper limits for which are set by a Estonia-Finland treaty on sulphur emissions, a Ministry of the Environment ruling, Estonia's environment strategy paper and an EU directive (EN/01/80) on large incinerators. The strict regulations mean it is not practical to postpone renovation of stations already underway, and opportunities for renovating at least two additional blocks should be investigated, as should the construction of new, sustainable fuel-based facilities before 2015. Proceeding from the limits in the directive, Narva's yearly output with two renovated blocks and ten unrenovated ones will be 5340 GWh in 2008. In 2015, the expected annual average output with two renovated blocks will be 2300 GWh. In comparison, last year Narva's stations produced 7346 GWh of electricity.

On the basis of current forecasts, Narva's stations will not be able to fulfil all of Estonia's demand for electricity in 2005. If we consider the Iru station as well with its yearly output of around 500 GWh, then Estonia will have great difficulty beginning in 2008 to keep customers supplied solely with domestic electricity produced by existing stations.

In setting its long-term course, Estonia must consider the experience of California and the current events in the European market. We need to understand what our objective is and what the resources are. Estonian energy's long-term goal has three sub-goals – ensuring the integrity of equipment, fulfilling environmental requirements and increasing economic efficiency, simultaneous optimisation.

### **Eu expansion in the context of the future**

#### ***The economic dimension of EU – future perspectives in the context of eastward EU enlargement***

*Janno Reiljan, Member of the Riigikogu, Professor Extraordinary, Faculty of Economics and Business Administration, University of Tartu, Estonian People's Union*

*Liina Kulu, Researcher, Faculty of Economics and Business Administration, University of Tartu*

The objective of the present article is to evaluate the economic aspects of the European Union future prospects in the context of eastward EU enlargement, based on the theoretical concept of integration. By means of analysis it is possible to predict what potential position the Central and Eastern European Countries would have after EU accession. In outline, the present article will discuss the theoretical aspects of the integration, evaluate the earlier integration in Europe, assess the factors determining the preconditions for European Union's eastward enlargement and analyse different future prospects of European integration.

The discussion about the future prospects of Europe should consider political and financial issues, questions concerning institutional changes as well as socio-economic topics. Since the Central and Eastern European Candidate Countries differ remarkably from the present EU member states considering their level of economic as well as social development, the economic dimension of the EU future prospects should be particularly emphasised. Its central question is: how the Union will function in the context of greater economic heterogeneity? The agenda set at the Laeken summit has pointed out four very broad areas to consider (a better definition of competence in the EU, simplification of the Union's instruments, more democracy, efficiency and transparency in the EU and the formulation of a constitution for Europe). But generally this is not enough and it is necessary for the European Union to analyse problems in its current system, and assess the impact of political changes from the present member states' as well as candidate countries' point of view.

Considering the economic aspects of the European Union future perspectives, the impact of the so-called triumphant markets approach would be the best solution for the CEEC-s. According to the strategy, Europe adjusts to globalisation at the cost of reducing social and environmental standards, and the economic growth soars. Nevertheless there is only a very

small probability that the public would accept this strategy. The most undesirable future prospect would be a superstate Europe, where integration in Europe proceeds according to a United States of Europe model. According to this strategy, Central and Eastern European countries do not belong in the EU.

### ***Estonia and the debate on the EU's future***

*Ivar Raig, Professor of Public Administration and European Studies, Nord Academy*

Since the creation of the EU, the central topic of European integration has been expanding and deepening it. Deepening embraces expanding spheres of cooperation as well as increasing cooperation and placing it in under joint state-wide (supranational) control.

At the EU's Nice summit of Dec. 2000, a declaration on the future of Europe was adopted that called on EU member and candidate states to hold extensive and deep debate on the future of Estonia.

The declaration defined four fundamental questions that the future debate should find answers to:

1. defining separation of powers between EU and member states based on a subsidiary relationship
2. the status of the charter on fundamental rights
3. simplifying foundation agreements
4. the role of parliaments of nation-states in European integration.

The subject of the debate is actually much wider. The goal is to devise the direction of the EU's future political development (federal vs. intergovernmental Europe), answer the question whether to continue in the framework of existing agreements or create a new fundamental document for European integration – a European constitution. Also needing clarity: questions such as what is Europe's role in a world that is globalising and what ideologies and policies to develop in a reformed Europe?

The declaration states that many of the problems of European integration are unresolved, and it recognises that the need for reform is extensive. A new date is suggested for an intergovernmental conference – 2004. It stresses at the same time that the new IGC cannot become an obstacle or prerequisite for the process of EU expansion.

Estonia's official positions on the future of Europe and the European Union are mainly confined to former foreign minister Toomas Hendrik Ilves' statements. He was one of the first to respond supportively to Joschka Fischer's proposal to form a federal EU. He considered necessary a bicameral parliament similar to the American model (proportional representation in lower chamber, territorial representation in the upper chamber). But Ilves did not agree with Fischer about a popularly-elected president. In a speech at Humboldt University, he said that if the EU had an elected Commission president, which in the interests of democratic rule of law, he felt it should, then the EU should ensure that all member states'

citizens felt they were participants in the process. Ilves has also supported the writing of an EU constitution, but this need not mean that the EU becomes a superstate or megastate. The constitution would be necessary to legally clarify the relationship between the political process and citizenry. As for the declaration on the future, Ilves says he feels it especially important that the next IGC not become an obstacle to expansion, meaning that the more successful candidate states should not have to wait until after the IGC to join but should participate in it just as in the next European Parliament elections.

Naturally, Estonia just as all other nation-states are interested in what the EU's potential constitution's relationship would be to states' own constitutions. Estonia would probably not want to change the constitution too much, even though it will be necessary to a certain extent. There are points in the Nice charter on fundamental rights that Estonia has difficulty accepting in the framework of current legislation.

It is possible to detect a new Europolitical tone in the first speeches, articles and statements of President Arnold Rüütel and members of the new cabinet, so there is a basis for talk of a new Estonian Europolicy. While Ilves and Meri supported Estonia's rapid and unconditional accession to the EU, Rüütel and foreign minister Kristiina Ojuland stress protection of democratic and national interests in Estonia's possible accession and support the future EU as a conglomeration of nation-states.

### ***The future of Europe: union or federal state?***

***Paavo Palk, Adviser to the EU Information Secretariat, Doctorate Candidate of Political Science, University of Tartu***

The objective of the European Convention was to work out recommendations on the future shape of the EU.

Wide-scale reform of the union is not a good aim. The EU has found a fairly good balance, proceeding on one hand from the need to unite the power of the member states to defend their foreign and economic-political interests and on the other to preserve the sovereignty of its member states.

Instead we should focus on intensifying cooperation in certain fields and make the decision-making process more understandable. For example, we should address the question why courts still need to issue orders for extradition of criminals from one EU state to another. In such cases, Europe could certainly be treated as a single unit, with complete mutual trust in members' judicial systems. In the same vein, the Council of Ministers, which is responsible for the adoption of legal acts, could be called the lower house of parliament. People are used to parliaments passing legislation. Why not follow this custom? It is much easier in the EU to accommodate majority popular opinion than it might initially seem.

Unfortunately EU reform programs often are based all too often on the notion that dissatisfaction over intensifying European integration is caused by the union's institutional structure. That is like claiming that the social ministry's structure is the cause of



disgruntlement among Estonia's pensioners. Here Barry Buzani's words are all too apt: imagined threats are not real, but their effect is.

In reforming the EU, we should consider the simple truth that all people are not equal, in the sense that some need to be given more time to adapt to and understand European integration, as much as we want wider support for European integration. A moving target provides entertainment for only a few, while it is beyond the abilities of most to hit it.

## THE CONSTITUTION

### **The Estonian constitution and the amendment process**

#### *Constitutional questions*

*Jüri Adams, Member of the Riigikogu, Pro Patria Union*

The article discusses some of the problems that have arisen regarding the constitution. Hammering out a new constitution in committee, and drafting, ratifying and implementing it, takes much time and energy, over a year in our case, which is not an exorbitant length of time. Examining the experience of other post-communist states, we can divide them into several groups according to constitutional issues. Things went smoothest in countries with pre-communist constitutions that could be renewed, like Latvia's. Of course it still meant addressing fundamental questions. Questions like where do we come from, where we are and where we want to go had to be discussed in many different forums.

Many countries found themselves on, or chose, a different path: writing and adopting new constitutions, one after another. Some countries are on their third constitution in ten years (Poland and others). We can make one fairly solid claim: it is impossible to be on top of every issue at one time. The kind of intellectual force that a nation pours into producing a constitution – in the form of politicians' and lawyers' work-hours, or farther afield, the attention of citizens – is such that it cannot be used for structural work in other fields at the same time.

Our experience was basically this: that we worked on the constitution for a long time and thoroughly, then at a certain point said, enough, and turned our attention to the practical side of reforms and other legislation.

Where constitutional amendments are concerned, there are signs that storm clouds are gathering. There are political forces that would like to push through changes that would see the head of state directly elected, since they have made the realisation that most voters, when asked whether they prefer themselves or the parliament or electoral college to elect the president, will say, we want to choose. Not that this is any great surprise. But behind this lies the desire of several individuals to repeat the path of Estonia's prewar president, Päts.

There are also other forces who want the kind of politics we have been successful in avoiding in the last ten years, specifically to muddle election day by including referendum questions on

the ballot. History is filled with examples of how persons who set the referendum agenda get more votes than they would have otherwise.

### ***The effect of the constitution on the political decision-making process***

***Liia Hänni, Member of the Riigikogu, Mõõdukad***

Estonia's constitution will mark its 10-year anniversary in the summer of 2002. The constitution entered into force as a result of the June 28, 1992 referendum, in which 91.2% of Estonian citizens voted for it. This kind of solidarity expressed the general belief that a new social contract on the foundations of the state was necessary for the road ahead. The rapid transition to a democratic society and market economy that occurred in Estonia over the past ten years has been supported by the constitutional law and the values it enshrines. The significance of the constitution in social life and political decision-making does not only depend on politicians' knowledge or the system of constitutional checks and balances, but foremost the people's attitude toward the rule of law. Law has been very important to Estonians, as a small nation, throughout history. A. H. Tammsaare's classic novel *Truth and Justice* clearly shows how important the sense of law was in people's everyday lives and relations with each other in traditional Estonian society. Even the darkest reaches of the occupation could not snuff out the veneration of justice. On the contrary, Estonians drew hope from their firm belief – sooner or later, justice will prevail and violence end. Wishing to restore its historical place among European states, in 1995 Estonia submitted its application for entry in the EU. Preparations have been intense, and now we have a real chance of completing accession talks this year. The question of what Estonia's relationship to the new situation as a member state will be is taking on more and more currency. Answering the question will take the united efforts of politicians and lawyers, and most importantly the solution must be an acceptable one for the people.

### ***Estonia's constitution and the EU referendum***

***Igor Gräzin, Dean of Legal Faculty, Nord Academy***

The fact that Estonia's possible accession to the EU will be accompanied by changes in the foundations of our statehood is now widely accepted. Leaving the constitution unamended is not considered a possibility by either the pro-Europe camp or the Euroskeptics.

Justice minister Märt Rask's April 29 letter in *Postimees*, entitled "A membership decision cannot be obtained from the people through deceit" is a momentous piece fundamentally, sociopolitically, ethically. Because of this, foreign minister Kristina Ojuland's position is also worthy of support: that the constitution can be changed, but only after it becomes clear whether the people are willing to join the EU. The correct referendum question from a legal standpoint would be the following: "Are you willing to concede Estonia's current independence when Estonia enters the EU?"

An affirmative answer would mean that Estonia would cease to exist as we know it, but the people would remain sovereign (the right to defend oneself, to self-determination and other rights being inalienable).

## STUDIES AND OPINIONS

### **Corruption in a transitional society**

#### *The media's treatment of corruption*

*Tiina Jõgeda, journalist*

Corruption in the legal sense does not match the definition used by journalists and newspaper readers. The meaning of corruption has a wider sense for the general public than it does in the interpretation of a law. The duty of the media in covering corruption is often seen in a one-sided manner – the fourth estate is endowed with the power of legislator, as well as judge and jury. In reality, the media's role is trustworthy reporting, but not necessarily exposing incidents, gathering evidence, or handing down a verdict.

Media coverage of corruption means that the topic is in the sphere of interest of journalists, reporters and editors, and that the ultimate goal of their work is to shape public opinion. From a survey carried out in autumn 2000 among top Estonian reporters and directors of newspapers and media companies, it emerged that a problem in writing about corruption, a sensitive topic, is the closed and fraternal nature of Estonian society, old-boy networks and so on. Where prior personal connections between reporters and their subjects exist, stories are sloughed off on other colleagues. Media figures who were interviewed agreed unanimously that coverage of corruption in the Estonian media was weak due to owners' lack of interest and money. Moreover, some investigative reporters lack professional training and do not offer the public much in their stories besides their self-styled reputation.

#### *The problem of state oversight and the law on procurements*

*Ene Andresen, Lecturer, University of Tartu*

One of the purposes of the project, Limiting Corruption in a Transitional Society, was to identify which stage of state procurement posed the biggest danger of corruption and how to discourage it with legal measures.

Many publicly disclosed crimes and infractions testify to the fact that Estonia lacks effective supervision over procurement contracts and their execution. This situation opens the door to potential collusion between the buyer and the successful bidder – to increase the cost of the goods or services being provided or to agree on deferring the date or lowering the quality of the procurement. This of course renders the whole, foregoing tender process – costly and time-consuming – of questionable value.

The lack of state supervision of the activity of the buyer after a procurement contract is concluded has subjected new procurement contracts and amendments to contracts to regulation that is unjustifiably strict.

### ***The constitutional and political limits to preventing work-related conflicts of interest***

***Vadim Filimonov, law student, University of Tartu***

The term conflict of interest is central to anti-corruption regulation, since many different codes of economic law are directed at preventing them. The legal definition of conflict of interest is provided by the anti-corruption law's Article 25, paragraph 1, which states it as the case when an official in the framework of his job description and duties must make or participate in the making of a decision that significantly affects his own economic interests or of those of his close relatives.

A conflict of interest is an ethical dilemma, one where the civil servant's personal interest may compromise the neutral and objective fulfilment of his public duty. An example is when an official receives a job offer from a company that wishes to participate in a state tender, or if an official must decide on the location of a new highway when one of the options would significantly decrease the price of a property he owns.

The writer believes that the restrictions in place for local government employees are unconstitutional, especially considering the fact that restrictions to free enterprise in place for local government employees are often in everyday life in breach of Article 11 of the Constitution on the principle of proportionality. Many municipalities are small and the nature of the work such that it would be hard to adhere to these restrictions. At the same time, it should be noted that local government employees are subject to the same rules of neutrality as national government officials, and the same goes for the obligation to declare their economic interests (this is justified and conforms to the principle of proportionality).

The writer supports a system where a strict prohibition would only apply where it was objectively necessary. Considering the stiff competition between public and private sector in Estonia, easing the restrictions is something to consider.

### **Study of trust in state institutions**

#### ***Trust in state institutions in Estonia***

***Raivo Vetik, Director of International and Social Studies Institute, Tallinn Pedagogical University***

A public survey done in autumn 2001 by the International and Social Studies Institute at the order of the Riigikogu Chancellery shows the reasons for low political trust in links to other societal problems. It showed that 36% of respondents trust the parliament, trust in parties has fallen to 20%, that 13% feel Estonian society is lawful and just and that two-thirds of respondents desire a strong leader who would "clean house."

The comparison of Estonia to other Eastern European countries shows that its position in terms of political trust and people's attitude towards democratic ideals is good rather than bad. In Romania, only 18% trust parliament, in the Czech Republic, 22% and in Hungary, 25%. Satisfaction with the development of democracy is the highest in Estonia among nine Eastern European countries.

The societal reasons for lack of political trust are tied to low confidence in society. Only a third of respondents believe that other people can be trusted, which inevitably affects the political and economic trust indices. Stereotypes also reduce confidence, a fact that can be explained with the two following questions. The statement "most Estonian laws were passed with all people in mind" was supported by 42% of respondents, but for the question "what do you think the parliament considers in making decisions", only 6% picked general national interest. The study also showed that only a third of respondents could name all of the parties in the governing coalition.

### **Legal semantics in Estonian lawmaking**

#### ***Legal semantics or legal language in the context of Estonia's judicial system***

*Raul Narits, Professor of Comparative Legal Sciences, University of Tartu*

Several years of experience working with linguists in the vocational master's degree program for Tartu University linguists inspired me to write in RiTo on the relationship between language and law, with the emphasis on language. The positions presented in the article should not be taken as a call for change, at best they aspire to a lawyer's ideas on the role of language in understanding law. It should be made clear: literacy is not, nor has it been, sufficient for understanding the nature of law. You don't go to court to seek laws, but justice.

The problems of language vis-à-vis the law cannot be sorted out just by the efforts of linguists or jurists. Constructive cooperation is also necessary. If the linguist looks at paragraph 113 of the criminal code, which states, "the killing of another person will be punished," and asks, why the killing of another person and not the death of the victim at hand, then it is perhaps time for lawyers to think about wording. Language still has staying power and there is an ambiguity in the above sentence. The linguist who provides this example offers a solution: "Laws are so complex in their wording that non-lawyers do not dare to start examining them."

This solution is still a partial one. Everyone who has drafted a law should remember the requirement posited by professor Jüri Uluots in the first half of last century: the body of laws should be comprehensible to every average citizen. So law should not be placed higher than language, nor should we see language as just the crankshaft of the engine of law. Law itself must be in the service of language – and foremost in the form of laws created to preserve language.

### **Keeping the people informed of parliamentary proceedings**

## ***Estonian media coverage of parliamentary proceedings***

***Ivo Rull, Director of the public relations firm Rull & Rumm***

At the request of the Riigikogu Chancellery, Rull & Rumm analysed how the Riigikogu was received by the public in 2001 on the basis of online and print media. On the basis of the analyses, it can be said that the activities of the party factions received the most coverage.

In the spring period (Mar 15 – May 15) the Riigikogu's legislative activity was covered in the sources monitored a total of 527 times. In the autumn period (Sep 15 – Nov 15) the number of reports was 689, almost a third more. The greater number of mentions was due to the greater frequency of work after summer vacation and also because of fallout from the presidential election. In both periods, a neutral bias was predominant.

Interest in the Riigikogu's actual work was at a stable low level in Delfi, Eesti Ekspress, Maaleht and SL Õhtuleht. In Eesti Päevaleht, Äripäev and BNS, interest waned in the autumn almost by a half. The amount of coverage increased in wire service ETA and Postimees, with almost a threefold increase in the former.

In both periods, the main stress was laid on the activity of party factions. In spring there was greater interest toward draft law proceedings, while in autumn the media focused on general legislative issues and Riigikogu management activity. In both periods there was little attention to the work of the Riigikogu Chancellery or the speakers. In spring there was less interest in committee work, in fall there was less in fulfilment of laws that entered in force.

## ***The people's consciousness of the Riigikogu***

***Merje Meisalu, Press Secretary, Riigikogu Chancellery***

Trust in the Riigikogu is tied to how informed people are of that institution. Ignorance breeds a feeling of vagueness and a desire to let things just go as they will. The article looks at how people's level of consciousness of the Riigikogu's work and duties has changed, where they get their information from or prefer to get it from, and whether they consider the coverage of the Riigikogu satisfactory.

The analysis mainly uses Saar Poll surveys in the "State and nation" series from 1995 ordered by the Riigikogu Chancellery.

It emerges from the surveys that the number of people with confidence in the Riigikogu has decreased year on year. A nadir was reached in 2001, when only 36% had faith in the parliament. What can we do to make the public have more confidence?

The best possibility is considered informative programs on state programs in public broadcasting. 57% of the population shares this position. Another recommendation is including experts and academics in the making of state decisions. 42% of respondents saw the law on public information as a solution.

How much are people interested in the Riigikogu's activity? About 37% of respondents feel the need to be better informed (2000 data). People with a higher education have the greatest desire to be informed, at 50%. Of people with secondary or lower education, only 31%, with a fifth not having any interest.

Thus it behooves the Riigikogu Chancellery, as the structure serving the Riigikogu, and every individual MP to inform the population in a more active and person-centred manner about the Riigikogu's work. The parliament has to step up cooperation with schools to inform students of the state and legislation in civics classes and also opportunities to shape one's future. One step closer to the people was taken this spring with the opening of an information centre.

## **Demographics**

### ***Public values of Estonian demographic policy, 1997–2001***

***Mare Ainsaar, Lecturer, University of Tartu, Adviser to the Minister of Population***

The article analyses how Estonia's two largest dailies covered values used in implementing policy from 1997–2001. The analysis assumed that media was balanced and reflected opinions of different interest groups. It emerged that Estonia's public population policy is balanced between two opposing sets of values – ensuring economic efficiency and security. At the same time the values differ from sector to sector. The popularity of values are formed by political factors, political topics of the day, and general public opinion. The article analyses public policy and does not presume to cover all political values. For an objective analysis of real policy, an analysis of actual decisions and documents from the same time period would have to be appended.

### ***Minorities in Estonia***

***Kaljo Laas, Chief Specialist, Census Division of Statistical Office, Assistant Professor, Tallinn Technical University***

Minorities in Estonia are a community of many nationalities. Integration and cultural policy vis-à-vis minorities have been on the agenda ever since restoration of independence. The article examines minorities' ethnic and linguistic makeup, country of birth, and arrival in Estonia from the aspect of 2000 census data. The article also separately treats the history and reasons that different communities have settled in Estonia. The share of minorities varies from precinct to precinct. This also accounts for the varying degree of linguistic and cultural integration into Estonian society, a factor also influenced by the age of the individual, the time of his or her arrival in Estonia and what generation immigrant he or she is.

## **Engineering as a profession**

### ***Increasing the prestige of engineering education***

*Ülo Tärno, Member of the Riigikogu, Professor, Tallinn Technical University, Estonian Centre Party*

Engineering is a way of life, a creative activity that features by a continuous quest, the need to think in terms of optimum values, bringing new ideas to fruition.

The number of institutions of higher learning necessary for preparing engineers is based on how many young people are capable of learning in this field, how many want to major in engineering, and what the demand for engineers is. The capability criterion is based on how high we set the bar for prospective engineers. Estonia does not need a set number of diplomas, but does need specialists with actual knowledge and know-how. How many doctorates, master's degrees and certified engineers does Estonia need? These questions must be answered by the state.

Our activities are tied to our objective of making a good education and high level of literacy integral. An integral is a concept used to express an area as the sum of an infinite number of infinitesimal parts. Education is much like that.

The education spectrum has higher and lower areas. The lower parts consist of people who are not willing or capable of attaining the necessary aptitude. Members of a society will always have different IQs. But it is the state's duty to educate and socialise even the denizens of the lowest levels of society, at the taxpayers' expense. Through sound planning, the state must ensure that all who seek an education get one. At the same time, a specialised education should be obtained at an individual or company's expense, especially in cases where the person is not likely to be employed in Estonia upon graduation. A small state similar to Estonia cannot afford the luxury of training a large country's workforce at the public's expense. Now is the time to analyse thoroughly what subjects to teach in elementary and middle schools, vocational schools, and colleges and universities.

In education, the (college) student and teacher (professor) are of crucial importance. To achieve and maintain the necessary level in scientific and academic work, universities must have a student and teacher body that exceeds critical mass. Faculties with strong traditions are essential.

One way to make a higher education more available is to create a wide network of colleges and specialised schools throughout the entire country. This is crucial in today and tomorrow's economic conditions. Estonia's five-year requirement for a technical education is of sound design. Today's Swedish master's degree-earner is analogous to an Estonian who has finished five years of engineering school. The Swedish licentiate exceeds these. I believe that in construction fields, especially in a building design speciality, a five-year education is necessary because of the high level of responsibility, similar to a doctor's, that a builder or technologist has. We cannot forget the accidents involving planes, bullet trains, ships and buildings that take hundreds of human lives. With a longer term of study, it is possible to offer a wider theoretical education, which is complemented by individual projects, computer design and modelling assignments, and engineering practicum courses and fieldwork.



## Innovation

### *Economic development, innovation and the technological–economic paradigm – a challenge to Central and Eastern European states*

*Tarmo Kalvet, Analyst, PRAXIS Centre for Political Studies*

*Rainer Kattel, Analyst, PRAXIS Centre for Political Studies; Senior Researcher Extraordinary, Department of Public Administration, University of Tartu*

Central and Eastern European states have gone through dramatic times over the last decade. The reform of the economic environment from a centralised command economy to a free market-centred one has produced winners as well as losers. Most of these states are in the process of trying to reduce the number of losers or at least alleviate social problems. Still, a more difficult challenge may lie ahead, one which has received almost no attention. This is a phenomenon that Joseph A. Schumpeter has termed creative destruction. It is a process of change that is characteristic of capitalist countries: progress, economic innovation and changes in the technological–economic paradigm are always accompanied by the disappearance of old economic sectors and their social frameworks, and their replacement by new ones – the economic sectors central to the new paradigm. This process most affects the economic life, and especially the future, of Central and Eastern European states.

Besides more theoretical discussion, the article examines Estonia's development in the context of the current technological–economic paradigm, with an emphasis on innovation in Estonia's IT sector. Estonia's rapid economic growth is examined through the convergence model, proceeding from the notion that lack of an active industry policy will result in action that has little additional value for industrial sectors. In looking at Estonia's IT sector, it is noted that Scandinavian contractor firms play a big role in shaping the sector. The dearth of workers, low level of R&D activity of workforce and the lack of cooperation between academic circles and the private sector all put a limit on innovative products.

## Housing economy

### *The Estonian housing economy's outlook*

*Anneli Kährrik, Researcher, Institute of Geography, University of Tartu*

House and home have considerable impact on people's health, well-being and level of opportunity. Estonia's transitional society has not addressed residential issues very much. In ten years, Estonia has made a transition from a social housing economy to a liberal system, due to which Estonia is different from the EU's welfare states and many other transition states. The results of reform are already partly apparent, but unfortunately a myriad negative consequences have accompanied the changes, and the residential sector has not taken the desired shape. Without the adoption of additional political measures, it is not likely that the sector will start functioning effectively. The article briefly sums up the reforms to date, analyses their socioeconomic effects on society and suggests several political tactics that could render the residential sector more stable and effective.

## Issuing business licenses

### *Government policy on licensing of fields with special requirements*

*Diana Eerma, Researcher, Chair of Political Economy, University of Tartu*

The main goal of regulation is to benefit the social well and create a macroeconomic environment that would ensure competitiveness.

The article draws a distinction between economic, social and administrative regulation.

Grounds for government intervention in the private sector are market barriers and situations where the market is not Pareto-effective. It is important to focus more on information barriers. In this case the government would be motivated by the consumer's lack of information and the sense that the market is not offering enough in the way of information. One way of overcoming information barriers is to establish minimum standards and licenses. But in another sense a license is intrinsically a state-imposed market barrier or an entry hurdle.

Regulation of information-related problems has two main functions: ensuring minimum quality of goods and services and avoiding adverse social and ecological impacts.

In summary, licenses can be seen as barriers that restrict competition and are justified in cases of specific economic barriers (mainly information and mobility) and social and ecological risks.

One of the author's potential categories of objectives for establishing licenses covers social, economic and administrative objectives. The hypothetical options suggested by the author involve alternatives to traditional regulation.

From the standpoint of efficacious targeting of licensing requirements, it is important to increase the transparency of the licensing process and avoid administrative overlapping in the issuing process by unambiguously identifying the objectives.

## THE CIVIL SOCIETY AND THE AUTHORITY OF THE STATE

### **The civil society**

#### *The Themis legislative forum in the service of citizens and civic organisations*

*Ülo Siivelt, Director of Information Department, Estonian Law Centre Foundation*

To help enshrine the principles of civil society in legislation, the Estonian Law Centre Foundation has launched a project, which lets ordinary citizens participate in the drafting of the most important. All citizens and NGO representatives can make suggestions for amendments to draft laws on the online forum ([www.lc.ee/themis](http://www.lc.ee/themis)). The bill drafters are also

included in discussions, making it especially productive and instructive for all. In the course of one year, serious suggestions have been made for eight laws. The comments have been forwarded to ministries and the legislature. In addition to the interactive participation, there is also an opportunity for round tables with wide representation of interest groups in the corresponding field. On the Themis home page there is background information on each draft law. A separate third-sector web page at ([www.lc.ee/3s](http://www.lc.ee/3s)) was set up as a clearinghouse for such information and develop networking even further. The government has also created a similar portal, TOM (Estonian acronym for Today We Decide) albeit not comparable in terms of inviting comment on bills (there is no follow-up on suggestions received). The main emphasis is laid on getting as many ideas and suggestions as possible and putting them in practice. A comparison table between Themis and TOM is appended.

## **Philanthropy in Estonia**

### ***Charity work in today's Estonia***

*Liis Klaar, Member of the Riigikogu, Mõõdukad*

Like our other social organisations, charity is still in an embryonic stage in Estonia. A strong element of social work is one of democracy's foundations, but ours is not yet that strong. Unfortunately the areas shared by the public and social sectors are undefined and undiscussed. Instead of going forward hand in hand, there is poor communication and suspicion between the two.

Social work and charity, especially in the social sphere, needs to be better recognised by the state and better applied.

Having been active in charity work for years, I can say that charity and charity organisations are necessary in even the wealthiest societies, not only because there are always people needing assistance (there are) but also to change societal mores.

We must understand that by helping others we help ourselves. We gain knowledge of a hidden side of society and improve our own conscience, also serving as good role models for children.

When funds are raised for charity, it is important to define what the purpose and who the recipient is, and accounting must be transparent, down to the last cent. It is after all a voluntary donation, and the donor must know what his money is used for. The state also requires accounting, especially our state, since funds have sadly been misappropriated. Because of this, our tax laws do not favour charity, an extremely bad development from the standpoint of society and democracy.

I believe that man is inherently good. We are willing to share with others what we have. There are few who dedicate their lives to helping others as Mother Teresa did. There are more of us who help and give because they themselves have enough to give. The desire to help out is largely self-fulfilment and provides a positive experience.

## ***Philanthropy must become natural***

***Kristina Mänd, Executive Director, Network of Estonian Nonprofit Organizations***

Most associations find it is difficult to get monetary support from firms.

Most associations have not any contacts with private donations. There are organisations that are generally more attractive to firms, such as organisations dealing with children and students. In looking at their sales pitches, it emerged that they do not proceed from their needs but their mission. The feeling is widespread that firms should support charity mainly out of goodwill.

According to entrepreneurs, charity organisations lack the confidence and skill to sell their organisation, and lack an understanding of partnership and marketing. Estonian firms are looking for new approaches to marketing and including associations is one of the potential opportunities.

The Estonian tax system is not donor-friendly. Both charity organisations and firms name taxation as the biggest obstacle to donation. Still, most do not have a clear picture of actual tax policy. Because of this, tax breaks are not put to good use.

In designing long-term changes, the government should thoroughly review the current system and besides counting revenue, look at how taxation supports the development of a civil society and organisations and assists in achieving national goals. In making fundamental changes, the state should understand that it cannot effect goals by itself, and must understand the need for the third sector to participate. A large step has been taken in this direction with the passing to parliament of the Conception on Development of Estonian Civil Society.

Donation and charity increases societal resources and humanity. Well-known management guru Peter Drucker has said that we build understanding and build up support. We are building human well-being, Network of Estonian Nonprofit Organizations started a philanthropy project at the beginning of the year. Its goal is to develop philanthropy-related activity in Estonia – make giving a part of our everyday life. There is no point in demanding the self-fulfilling type of outreach in a society where the majority of people are still looking for a sense of security. We are working towards inculcating a charitable mindset and making giving easier, more open and trustworthy.

## **THE PARLIAMENTARY WORLD AND INTERNATIONAL RELATIONS**

### **Convention on the Future of Europe and the Riigikogu**

***Convention on the Future of Europe shaping the future of Europe and Estonia***

***Tunne Kelam, Vice-President of the Riigikogu and Chairman of the European Affairs Committee, Pro Patria Union***

At the 2000 summit in Nice, the EU's leaders laid the groundwork for the expansion of Europe with many necessary institutional changes. It was clear to all member states that it would be difficult to achieve unanimity and because of that expansion would be more difficult. The declaration of the summit in Laeken on December 15, 2001 contains a call to initiate the European Convention. Upon the agreement of EU member states, the convention will start discussing many larger-scale questions, such as simplifying EU treaties and adopting a European constitution, the appointment of a European Commission president, division of responsibility between the EU and member states. The participation of national legislatures in the decision-making process will ensure legitimacy and representation, which other structures cannot ensure. At the same time they are symbols of sovereignty for voters that would allow citizens to participate in political processes, including the forum. Here the role of national legislatures and especially the European affairs commission becomes of higher importance in informing the populace and developing debate.

There are 105 full members in the convention from 28 countries, 100 alternates and 12 observers. Former French president Valéry Giscard d'Estaing was elected president of the convention. Estonian parliament is represented by European Affairs Committee chairman Tunne Kelam and Riigikogu co-speaker Peeter Kreitzberg. Former Estonian president Lennart Meri was appointed government liaison. The first convention convened on February 28, 2002 in Brussels.

The main goal of the convention's work is to write a foundation treaty or convention that would define the EU's ultimate direction, including the division of powers, instruments and principles of the charter of fundamental rights.

Estonia supports the desire to complement the provisions concerning national legislatures in EU treaties and to intensify information exchange and cooperation between national legislatures and EU institutions, especially the European Parliament. The convention's work so far has shown that national legislators have reached consensus that elected national representatives must have a louder voice and greater decision-making power in convention discussions.

From Estonia's perspective, it is important, in the context of the convention and the context of the EU, to achieve domestic positions and agreements in a timely fashion through an effective coordination system; also, to actively disseminate positions that have been reached in the convention as well as subsequently in the corresponding institutions of member states and on an international level.

## HISTORY OF THE RIIGIKOGU

### **The Constitution and the story of its supervision**

#### *Development and the realisation of the idea of constitutional review in Estonia*

*Heinrich Schneider, Counsellor to the Constitutional Review Chamber of the Supreme Court*

The idea of judicial constitutional review in Estonia has a long history of maturing and realisation. As an important issue of political life, it has enjoyed lively discussions and debates in the course of elaboration of independent Estonia's constitutions. Already back when the first, 1920 Constitution was drafted, a version of constitutional review that was quite radical was discussed. According to this version, publication of laws and review of constitutionality of laws would have been the duty of a National (Supreme) Court; whereas in cases of differences between the legislator and the court, a law would have been put to referendum. This implementation model was finally abandoned due to two basic fears: the possibility that the National Court would interfere with the work of the Riigikogu too much and the legislative process become too slow; and that the referenda would slow the process of finding solutions. This, however, did not mean that judicial constitutional review was excluded altogether, as administrative courts existed even before the Constitution was drafted and, pursuant to the Constitution, the courts of general jurisdiction when hearing disputes had to decide on the constitutionality of applicable laws.

In relation to the passing of Law on the Amendments to the Constitution in October 1933, the second constitution of Estonia has been mentioned in law literature. These amendments to the basic legislation did not bring along essential changes in the court system, yet the overall tendency towards deepening authoritarianism in state and society was also to be felt in the activities of courts. The issues of legality and the guarantee thereof became topical again in the two-chambered National Assembly, which was set up with the task of drafting the third Constitution. After the economic life had livened, the crisis was overcome and internal situation stabilised. The second chamber of the National Assembly added a new article to the draft constitution concerning setting up a constitutional court. The first chamber did not feel the need to form a separate constitutional court and felt that the existing mechanism of guaranteeing legality would be supported by the planned institution of Legal Chancellor. After long disputes an agreement was reached: the principle of judicial constitutional protection of the first Constitution would be retained and the idea to expressis verbis provide for the formation of a constitutional court would be abandoned, which did not exclude the possibility of setting up such a court as a specialised court under the law.

In the ambiguous situation created in the Soviet Union by perestroika, a peculiar period started in Estonia, grounded on so called pre-constitutional acts, during which several laws concerning judicial constitutional review and constitutional drafts were prepared. These served as a starting point for the Constitutional Assembly in drafting the fourth Constitution, which was adopted by a referendum on 28 June 1992.

Foreign experts have traced additional peculiarities in Estonian judicial constitutional review, which make the model unique in European context. In Continental European countries, constitutional courts have been formed, which are separate from the system of general courts, whereas in Estonia both functions are fulfilled by the Supreme Court. It has also been found that the present institutional structure has its advantages in a small country like Estonia. This is supported by the practice of the Supreme Court, where during the period of 1933 to 1 January 2002, a total of 55 constitutional cases were heard. At the same time proposals have been made to set up a separate constitutional court. This could become

necessary when the constitutional review competencies are extended and if direct constitutional complaints are allowed.

## LITERATURE AND DATABASES

### *The constitution in letters*

*Küllike Maurer, Chief Specialist of the Parliamentary Information Centre, Estonian National Library*

The article gives a short overview of law volumes on the constitution. Under examination are monographs and articles from law periodicals (primarily *Juridica*). In 1997, then Estonian Supreme Court chief justice Rait Maruste (currently justice on the European Human Rights Court) was forced to state that "the culture of law on a national level, which became fairly solid during the first independence period, was effectively demolished in the Soviet period. [...] Today Estonia cannot be proud of the volume of writings on law or its number of specialists. [...] There is very little theoretical or doctrinal constitutional theory (Maruste 1997).

In 1992, on the constitution's 10th anniversary, the picture has thankfully improved, with many significant works added to the canon. About 50 articles have been published in the journal *Juridica*. There are also writings in other publications – Parliamentary Papers, yearbooks of the Estonian Academic Law Society, conference collections, and even foreign periodicals.

### *The legislative body as consumer of information*

*Piret Juhani, Senior Bibliographer of the Parliamentary Information Centre, Estonian National Library*

The article gives an overview of the legislative body as a special type of information consumer. In using the term information consumption, we must see the information process as an integral whole consisting of the need for information, searches for information, and the usage of search results. The article covers the need, search and usage of occupational, recreational, practical and background information in the context of legislatures. Surveyed are characteristics of legislatures in information protocol and information blocks and barriers, as well as studies.

Legislatures are grouped by their information consumption according to a Polsby theory whereby legislatures can be divided into four categories: rubber stamp legislature, functioning legislature, informed legislature and a transformative legislature.