

Preparation of Estonia's positions in European Union legislative drafting

*Has the preparation of Estonia's positions been
timely, inclusive and based on impact assessments?*

Report of the National Audit
Office to the Riigikogu

Tallinn, 10 October 2024

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Have the positions of Estonia been prepared in a timely, inclusive way and based on impact assessments / Has the preparation of Estonia's positions been timely, inclusive and based on impact assessments?

Summary of audit results

Main messages

European Union law is part of the legal system of Estonia. In order to ensure that European Union law is in line with the interests of Estonia, the preparation of Estonia's positions on important European Union affairs starts in the early stages of the proceedings or policy-making, but the positions are often not completed by the deadline initially set. The longer the approval of positions is delayed, the less time is left for them to be effectively presented in negotiations.

The short time limits the depth of the analysis of the impact of EU affairs and the assessment of Estonia's specificities, including the sufficiently early involvement of stakeholders in specific issues, which is necessary to gather information.

The process of preparing the positions should be easier to observe and the final positions should be easier to find. For example, not all opinions received from ministries and stakeholders are fully accessible. There is also room for improvement in the usability of the draft legislation information system in the preparation of EU affairs. All of this can have an impact on the effective shaping and active defence of Estonia's positions.

Main observations

- **The final approval of the positions takes place later than planned, which in certain cases may hamper the effectiveness of participation in the negotiations.** The preparation and approval of positions on the legal and other initiatives published by the European Commission often takes more time than initially planned and the European Union Affairs Committee of the Riigikogu usually approves the final positions after the subsidiarity deadline¹ has expired. If the preparation of the position to be submitted to the Riigikogu for approval is delayed and substantive discussions are already underway in the working groups of the Council of the

¹ The deadline until which national parliaments in the European Union have the right to present an opinion on why a particular area does not need to be regulated at EU level.

Did you know that

The Government presents the following draft European Union legislation to the Riigikogu for the formation of a position in the matter:

1) draft legislation the scope of whose application requires the passage, amendment or repeal of an Act or resolution of the Riigikogu;

2) draft legislation whose passage would entail a significant economic or social impact.

Source: [Riigikogu Rules of Procedure and Internal Rules Act](#)

The National Audit Office analysed the rules and practice of the process of preparing Estonia's positions, the general statistics and, more specifically, examples in the case of three drafts of EU legislation.

European Union, the opportunities to actively and effectively influence the negotiations are limited.

- **A large part of the material on the processing of European Union affairs is public, but some of the material on the preparation of positions is not easy to find.** For example, the file in the draft information system does not contain the complete positions of stakeholders and all co-responsible authorities. The final positions of Estonia, as approved by the Riigikogu, are not always available in the draft information system.
- **If an EU affair has been assessed as important, stakeholders are asked to present their opinions and informed of the process of preparation of positions, but a better involvement is hampered by the limited time set for the preparation of positions, the lack of suitable information systems and the large volume of the tasks.** An advisory guideline was prepared for ministries in early 2024 to support better involvement. Although information on EU affairs is sent to many stakeholders and partners, the volume of information and the lack of resources mean that only a fraction of them is usually able to give feedback.
- **When the impact of European Union affairs is analysed, the attention given to the specific implications on Estonian businesses, residents or the state has not always been sufficient.** The depth of impact analyses primarily depends on the initial evaluation of the importance of the draft. The impacts of priority drafts can be analysed also in a short time. There is a lack of consistency in the way that Estonia-specific impacts are highlighted in the preparation of positions.

Recommendations of the National Audit Office

The National Audit Office advised the Secretary of State to supplement the guidelines for processing EU affairs by clarifying when a longer deadline for the preparation of positions may be set; and to establish working procedures to ensure that all materials related to the draft (including final positions and opinions of stakeholders) are fully accessible in the draft information system. The National Audit Office also recommended specifying when positions are deemed final if the Riigikogu changes the positions of the Government to a significant extent.

The Secretary of State replied that he agrees with the opinion of the National Audit Office that the process of preparing positions in European Union affairs can be made even better observable in the course of the state's co-creation environment project. The Secretary of State pointed out as a shortcoming of the audit that the audit sample was not representative for the purpose of drawing generalised conclusions.

The National Audit Office recommended that the Minister of Climate and the Minister of Justice and Digital Affairs consider, as appropriate, organising early communication to stakeholders and sending a more substantive involvement letter at a later stage, and that **the Minister of Climate, the Minister of Justice and Digital Affairs and the Minister of Economic Affairs and Industry** ensure that the impact analysis includes a substantive analysis of the positions of stakeholders and ministries and of Estonia-specific risks and impacts.

The Minister of Economic Affairs and Industry pointed out that the analysis of the preparation of positions on complex initiatives carried out by the National Audit Office provides an opportunity to highlight the main concerns in the decision-making process of the European Union and thus to rethink and improve the process.

The Minister of Climate and the Minister of Infrastructure generally agreed with the conclusion made in the draft that the short time for the preparation Estonia's positions sets limits to the substantive analysis of the impact of EU affairs and an assessment of the specificities of Estonia. They also agreed that the process of preparing the positions should be easier to observe and the final positions should be easier to find.

The Minister of Justice and Digital Affairs agreed with the recommendations of the National Audit Office, but noted that for a complete picture the role of the Riigikogu should also have been analysed, focusing on ways to ensure the efficiency of the process, including earlier prioritisation and strengthening the cooperation between the executive power and the Riigikogu.