

OPAL Country Reports

The Estonian Parliament and EU Affairs

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OPAL Country Report on the Estonian Parliament¹

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I. General Position of Parliament in the Constitutional Balance of the Member State: Constitutional and institutional factors	
This section looks at the role of Parliament in the political system, to help us understand the relative power position of the legislature.	
1.1	What is the type of government in the political system of your member state? (i.e. parliamentary or semi-presidential)
	Estonia has parliamentary government.
1.2	Is it a uni- or bicameral Parliament? If bicameral, is one house dominant or are both equally strong? Please briefly explain.
	The Estonian Parliament (Riigikogu) is unicameral.
1.3	Is the state federal, decentralized or unitary? If applicable, is it a form of asymmetrical federalism?
	Estonia is a unitary state.
1.4	Briefly describe the electoral system, if applicable, for each chamber.
	<p>Estonia uses proportional representation (PR) with a 5% entry threshold. The Estonian Parliament consists of 101 directly elected members. There are 12 multi-member (5 to 14 mandates) districts.</p> <p>Procedure: Direct party-list voting with proportional distribution of seats in three rounds of counting according to a simple electoral quotient. Candidates are listed on the ballot paper on which each elector indicates his or her choice. In determining the electoral results, a simple quotient is calculated for each district by dividing the number of valid votes cast by the number of seats allocated to the district; each candidate who obtains more votes than this quotient is declared elected. Moreover, candidates presented on party lists are enumerated by order of votes obtained; each of these lists is allocated a number of seats equal to the number of times its votes obtained exceed the quotient, those candidates receiving the most votes being declared elected. Finally, mandates not assigned at the district level are distributed as national "compensation mandates" on the basis of a modified d'Hondt method among those parties and electoral coalitions whose candidates obtained at least 5% of the national vote. Vacancies which occur between general elections are filled by candidates who are "next-in-line" on the list of the party or electoral coalition which formerly held the seat. They are also known as "substitute members". Voting is not compulsory. Voting via the internet is possible and increasingly popular. Source: < http://www.ipu.org/parline/reports/2105_B.htm</p>

¹ This country report provides some basic data that has been collected in the context of the research for a chapter to be published in C. Heffler, C. Neuhold, O. Rozenberg, J. Smith & W. Wessels (Eds.). (forthcoming in 2014). *The Palgrave Handbook of National Parliaments and the European Union*. London: Palgrave, Macmillan.

1-5	<p>What (f)actors can prevent the parliament agreeing on EU legislation and/or treaty reform? (e.g. a constitutional court, or public referenda on questions of EU integration)</p>
	<p>The relevant actors include the President of the Republic and the Supreme Court (and, indirectly, the Legal Chancellor). In addition, the Estonian Parliament may refer certain draft acts (see below) - but not international treaties - to a referendum which yields a binding decision.</p> <p>The President of the Republic can refrain from announcing a law that has been approved by the Riigikogu, sending it back to the Riigikogu for new discussion and deciding. If the Riigikogu approves again the law sent back by the President of the Republic without making any amendments to it, then the President of the Republic shall announce the law or apply to the Supreme Court for determining the conformance of the law to the Constitution. If the Supreme Court satisfies the application of the President of the Republic, then the law will not enter into force. If the Supreme Court does not satisfy the application, then the President of the Republic must announce the law.¹</p> <p>The Supreme Court of Estonia acts as the court of constitutional review (and can declare an act or an international treaty to be in conflict with the Constitution). The composition of the Supreme Court includes the Constitutional Review Chamber. Cases are heard by a panel consisting of at least three justices of the Constitutional Review Chamber. In certain cases, matters of constitutional review are adjudicated by the Supreme Court <i>en banc</i>. A case is referred to be heard by the Supreme Court <i>en banc</i> if the petition for the case to be heard is received from another Chamber of the Supreme Court or the petition concerns a significant constitutional issue. The Constitutional Review Chamber may also decide to refer a case for consideration by the Supreme Court <i>en banc</i>. This occurs in the following instances: if, upon the hearing of the matter in the Chamber, at least one justice maintains a dissenting opinion; or, if adjudication of the matter by the Supreme Court <i>en banc</i> is necessary to alter earlier practices of interpretation or judgment.</p> <p>The following have the right to propose the initiation of constitutional review court proceedings:</p> <ul style="list-style-type: none"> • the President, if the Riigikogu passes, unamended, an Act which the President of the Republic refuses to proclaim; • courts, if a court declares, in its judgment, an Act or other legislation of general application to be in conflict with the Constitution and does not apply such Act or legislation; • the Chancellor of Justice, if he or she finds that an Act is in conflict with the Constitution (or other legislation of general application is in conflict with the Constitution or an Act) and the body which passed the Act fails to bring the legislation into conformity with the Constitution, or if he or she finds that an international agreement of the Republic of Estonia which has not yet entered into force is in conflict with the Constitution; • an individual, if there are no other means of legal protection.² <p>As mentioned above, the Chancellor of Justice has the right to propose the initiation of constitutional review. The institution of the Chancellor of Justice in Estonia is not part of the legislative, executive or judicial powers, it is not a political or a law enforcement body. The institution of the Chancellor of Justice is established by the Constitution and the Chancellor only observes the Constitution and his conscience. The main constitutional duty of the Chancellor of Justice is to ensure that laws and regulations would be constitutional and in compliance with other laws. The Chancellor of Justice is appointed by the Riigikogu on the proposal of the President of the Republic for a term of seven years. The Chancellor of Justice in Estonia combines the function of the general body of petition and the guardian of constitutionality. Such a combined competence is unique internationally.³</p>

An example of how the actors described above exercise their rights:
 In March 2012 the Chancellor of Justice had recourse to the Supreme Court, with a request to declare Article 4(4) of the signed Treaty establishing the European Stability Mechanism to be in conflict with the principle of parliamentary democracy arising from § 1(1) and § 10 of the Constitution of Estonia, and with § 65 and § 115 of the Constitution. The Constitutional Review Chamber of the Supreme Court referred the matter to the Supreme Court *en banc*. In July 2012, with a narrow 10-9 vote, the Supreme Court *en banc* dismissed the application of the Chancellor of Justice to declare Article 4 (4) of the Treaty Establishing the European Stability Mechanism (ESM Treaty) to be in conflict with the Constitution. The Supreme Court was of the position that although the contested article restricts the financial competence of the Estonian parliament (Riigikogu), the principle of rule of law and the sovereignty of Estonia, the restriction is justified.

According to the Estonian Referendum Act of 2002, the following issues can be submitted to a **referendum**:

1) *The Riigikogu shall submit any amendment of Chapters 1 and 15 of the Constitution to a referendum. The Riigikogu may submit other draft Acts that amend the Constitution, and other draft Acts or other national issues to a referendum.*

(2) *Issues regarding the budget, taxation, financial obligations of the state, ratification and denunciation of international agreements, the declaration or termination of a state of emergency, or national defence shall not be submitted to a referendum.*

While “other draft Acts” referred to above may, in principle, include certain EU-related legislation, such legislation has never been submitted to a referendum in practice. The only EU-related referendum held in Estonia has been the accession referendum held on September 14, 2003. The question voted on was: “Are you in favour of the accession to the European Union and passage of the Act on Amendments to the Constitution of the Republic of Estonia?” According to the Estonian Referendum Act of 2002, the decision of a referendum is binding for all state authorities.

2. General Position of Parliament in the Constitutional Balance of the Member State: Political Factors		
This section is about the basic political factors which might influence parliament’s strength in relation to the government.		
2.1	What is the type of government after the most recent elections e.g. single party, minority, coalition, oversized coalition government?	
	It is a coalition government. The coalition partners include the Estonian Reform Party and the Union of Pro Patria and Res Publica. The coalition parties have 59 seats (out of 101) in the Parliament.	
2.2	When were the most recent general elections and what were the results? Could you please give a short list of the parliamentary groups, their no. of seats in parliament and ideological position?	
	Latest election:	6th March, 2011
	Name of the party	Ideological position (e.g. Communist, left liberal, socialist, liberal, right liberal, conservative, christian democrat, extreme right, ethnic minority or regionalist party)

	Estonian Reform Party (Eesti Reformierakond)	33 (32.7%)	Pro-market Liberal
	Estonian Centre Party (Eesti Keskerakond)	26 (25.7%)	Centre/ Social-Liberal
	Union of Pro Patria and Res Publica (Isamaa ja Res Publica Liit)	23 (22.8%)	Conservative
	Social Democratic Party (Sotsiaaldemokraatlik Erakond)	19 (18.8%)	Social Democratic
2.3	How polarized was parliamentary debate over ratification of the Lisbon Treaty? Which parliamentary party groups supported and which opposed ratification?		
	<p>The Estonian Parliament ratified the Lisbon Treaty on June 11, 2008 with votes 91-1. There was little debate about the Treaty and its implications – largely because the Riigikogu had previously (on May 9, 2006, with 73 votes in favour and 1 against) ratified the Constitutional Treaty and there had been extensive analysis and debate prior to this ratification. For instance, in late 2004 the Constitutional Committee of the Riigikogu formed a special working group that carried out a thorough analysis of the compatibility of the Constitutional Treaty with the Constitution of Estonia and its legal implications.</p> <p>Of the 97 MPs present, 91 voted in favour and 1 against the Lisbon Treaty, while 5 refrained. The only person to vote “against” was Igor Gräzin, member of the governing Reform Party. Gräzin is widely known as a euroskeptic, dissenting from the party’s pro-EU stance. Of the 5 MPs that refrained from voting, 4 belonged to the People’s Union (which had 6 seats in the Riigikogu) and 1 to the Centre Party. Both the People’s Union and the Centre Party were opposition parties.</p>		

3. New Provisions of the Lisbon Treaty on Direct Contact with EU Institutions

The Lisbon Treaty provides national parliaments with new opportunities for direct contact with the EU institutions. This section addresses the incorporation of the new Lisbon provisions into national law and concrete procedures. Questions 6.3 to 6.5 investigate in how far these procedures have been used.

3-1	<p>Have there been any regulations adopted by your member state to incorporate the new powers that are entrusted to the national parliaments by the Treaty of Lisbon? If so, please list the regulations in their appropriate categories:</p> <ul style="list-style-type: none"> a. Constitutional provisions b. Legal provisions - Statutory provisions c. Parliamentary Standing Orders d. Other (please specify) <p>Is this process complete or ongoing?</p>
	<p>In the second half of 2009, in-depth discussions started about the necessity of amending the existing regulations on domestic EU-related decision-making taking into account the Treaty of Lisbon provisions. In February 2010, all the 6 factions of the Riigikogu submitted a joint amendment to the Riigikogu Rules of Procedure and Internal Rules Act (category b: Legal provisions – Statutory provisions). The amended Act was adopted on May 19, 2010.</p>

3.2	What exactly are the rules (i.e. parliamentary bodies involved, procedure, regional parliament's involvement, cooperation in bicameral systems) for...
3.2 i	The "Political Dialogue" with the Commission
	No new regulations have been adopted (aside from the early warning mechanism provisions described in 6.2ii). According to current regulations, EUAC is not entitled to send its opinions to European institutions – its opinions are addressed to the government which is obliged to follow them when participating in the EU decision-making process. In principle, the plenary of the Riigikogu can adopt resolutions according to its general procedures (and send these to European institutions).
3.2 ii	The Early Warning Mechanism (EWM)
	New provision added to Riigikogu Rules of Procedure and Internal Rules Act in 2010: The EUAC may submit a draft Resolution of the Riigikogu containing a reasoned opinion on why a draft European Union legislative act does not comply with the principle of subsidiarity. The Board of the Riigikogu shall designate a term for the submission of motions to amend the draft Resolution. Motions to amend may be submitted by standing committees and factions. The EUAC is requested to hear the opinion of the Government of the Republic. Finally, the plenary votes on the draft resolution (a simple majority of votes is required to pass the resolution). For a detailed description, see Riigikogu Rules of Procedure and Internal Rules Act § 152 ⁶ http://www.riigikogu.ee/?rep_id=799356
3.2 iii	The "Passarelle clause"
	New provision added to Riigikogu Rules of Procedure and Internal Rules Act in 2010: A standing committee or faction may submit a draft resolution of the Riigikogu to make known its opposition to an initiative taken by the European Council to adopt a decision referred to in the first or second subparagraph of Article 48(7) of the Treaty on European Union or to proposal by Commission according to Article 81 (3) of the TFEU. The Board of the Riigikogu shall designate a term for the submission of motions to amend the draft Resolution. Motions to amend may be submitted by standing committees and factions. The EUAC is the leading committee of the draft Resolution. It must hear the opinion of the Government of the Republic. The plenary votes on the resolution (simple majority required). For a detailed description, see Riigikogu Rules of Procedure and Internal Rules Act § 152 ⁸ http://www.riigikogu.ee/?rep_id=799356
3.2 iv	The action of annulment before ECJ on breach with the subsidiarity principle (What quota of MPs is needed to enforce the action of annulment?)
	New provision added to Riigikogu Rules of Procedure and Internal Rules Act in 2010: A standing committee or faction may submit a draft Resolution of the Riigikogu containing a request to the Government to file an action at the ECJ concerning a violation of the principle of subsidiarity in a legislative act of the EU. The draft Resolution must contain the text of the action. The EUAC is the leading committee of the draft Resolution. The draft Resolution is sent to the Government for an opinion. The Government of the Republic submits its opinion in writing to the EUAC within three weeks. The Government of the Republic may not decline to submit an opinion. The Government of the Republic shall organise the filing of an action at the ECJ. For a detailed description, see Riigikogu Rules of Procedure and Internal Rules Act § 152 ⁷

	http://www.riigikogu.ee/?rep_id=799356
3.2 v	Accession of new member states to the EU
	No new regulations.
3.3	How actively does the parliament engage in the political dialogue and “early warning mechanism” with the Commission?
	According to information provided by the European Commission on the extent to which national parliaments have made use of the right to submit opinions, the Riigikogu submitted one opinion in 2009 and none in 2010 and 2011 (being one of the least active national parliaments in terms of the “political dialogue”).
3.4	Has parliament ever threatened to bring a legislative act to the ECJ because of subsidiarity concerns?
	No, as far as I can tell.
3.5	If applicable to your member state, how does parliament proceed on the ratification of: a. Treaty Establishing the European Stability Mechanism, signed 2 Feb 2012 b. Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, signed 2 March 2012
	<p>a) The Treaty Establishing the European Stability Mechanism was ratified by the Riigikogu on August 30, 2012 (59 in favor, 34 against, 1 neutral). Estonia was the last country in the Eurozone to do so. Parliamentary debates (during all three readings of the bill) were long and intense. The Treaty and the draft ratification bill were discussed in various committees.</p> <p>Much of the discussion focused on the role of the Riigikogu (and specifically that of the plenary vs EUAC) in future ESM-related decision-making. The results of these debates are reflected in the ratification act. The ratification act also spells out amendments to the Riigikogu Rules of Procedure and Internal Rules Act that are related to Estonia’s participation in the ESM. These stipulate special “fast-track” procedures for adopting Riigikogu resolutions in situations where financial stability of the Eurozone/its member state is at stake.</p> <p>b) The first reading of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union took place at a plenary session of the Riigikogu on September 19, 2012. Before that, it was discussed in the Finance Committee of the Riigikogu. The committee set October 3, 2012 as a deadline for proposing amendments to the ratification bill.</p> <p>Estonia’s accession to the treaty was approved by EUAC on January 27, 2012 (i.e. EUAC authorized the government to sign the treaty).</p>

¹ <https://www.eesti.ee/eng/riik/seadusandlus>

² http://www.estonica.org/en/State/Judicial_system/Constitutional_review/

³ <http://oiguskantsler.ee/en/estonian-model-of-the-institution-of-the-chancellor-of-justice>