

The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds

FRANET national research in Estonia

Final Report

Contractor's name: Estonian Human Rights Centre and Praxis

Authors' names: Liina Laanpere, Liina Järviste, Mari-Liis Sepper

Disclaimer: This document was commissioned under contract by the European Union Agency for Fundamental Rights (FRA) as background material for the project 'Providing technical assistance to national bodies with a human rights remit involved in assessing EU Charter & CRPD compliance of EU funds'. The information and views contained in the document do not necessarily reflect the views or the official position of the FRA. The document is made publicly available for transparency and information purposes only and does not constitute legal advice or legal opinion.

Contents

1	Introduction	3
1.1	Desk research	3
1.2	Expert interviews	3
1.2.1	Preparation of fieldwork, identification, and recruitment of participants	3
1.2.2	Sample and description of fieldwork	4
1.2.3	Data Analysis.....	4
1.3	Roundtable discussion.....	5
2	Implementation of EU funds: challenges and opportunities for fundamental rights ...	5
2.1	Overview: EU Funds in Estonia.....	5
2.2	EU fund selection	6
2.3	Challenges for fundamental rights	8
2.3.1	Civil society organisations	8
2.3.2	Academia	9
2.3.3	Governments.....	9
2.3.4	Other.....	11
2.3.5	A list of the main fundamental rights issues, if any, by fund	12
2.4	Proposed Funds.....	13
3	The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds	13
3.1	National bodies with human rights or equality remit	13
3.2	EU funds related challenges of the fundamental rights in Estonia.....	16
3.2.1	Civil Society inclusion, EU funds and fundamental rights	16
3.2.2	EU funds and official complaints.....	19
3.2.3	AMIF	22
3.2.4	New National Strategic Objectives for 2021-2027.....	23
4	Critical success factors.....	23
5	Conclusion	26

1 Introduction

This report presents the Estonian findings of the desk research, expert interviews, and roundtable discussion of the Fundamental Rights Agency (FRA) study project on the topic of EU funds and fundamental rights. The general aim of the FRA project is to provide guidance to national bodies with a human rights remit (NHRB) (that is, national human rights institutions, equality bodies, and ombuds institutions) on their potential role in the monitoring of EU funds.

1.1 Desk research

This report is the result of the desk research conducted in March and April 2022 and was compiled using information from various sources: government websites on the 2014-2020 and 2021-2027 funding cycles, including relevant programmes and evaluation reports; materials related to the process of adopting laws for 2021-2027 and 2014-2020 funding cycles, including explanatory memorandums and opinions submitted by state institutions and civil society organisations; websites of civil society organisations and national bodies with a human rights remit; news reports; academic databases. Although the research focused on national information, some international and EU-level sources were also investigated, such as reports by the UNHCR (regarding the AMIF funding), the European Ombudsman, and the European Court of Auditors.

Due to the lack of reports on fundamental rights concerns related to specific EU funds, the desk research placed more focus on relevant background information which helped to prepare for the interviews.

1.2 Expert interviews

The study aimed to learn from professionals representing NHRBs, civil society organisations (CSOs) and the civil service/national grant management authorities (NFMS) who have been involved in monitoring EU Funds and enforcing fundamental rights.

For data collection purposes, in total, 10 eligible interviews were carried out online in the timeframe from the end of April until the end of June 2022. The sample is described below.

1.2.1 Preparation of fieldwork, identification, and recruitment of participants

The interviews were conducted by one interviewer from the Praxis Centre for Policy Studies. Recruitment of the interviewees was managed by the lead of the consortium – the Estonian Human Rights Centre. The experts were contacted via email and asked for their consent to be interviewed. It was particularly challenging to find suitable NHRB

representatives who would have the necessary experience working with the EU funds. In the end we settled with two interviews per category of institution instead of three as planned.

1.2.2 Sample and description of fieldwork

The sample size was determined by the Fundamental Rights Agency who is tasked to carry out comparative research on EU funds management, fundamental rights and NHRBs' roles and involvement in the EU. Ten interviews were to be conducted in Estonia. The sample was further formed considering the following criteria: type of an institution (fund management, NHRB, civil society organisation) and the role of the expert. The goal was to reach out to experts who had considerable experience with monitoring EU funds and enforcing fundamental rights from different perspectives.

There are many more women in the sample than men because more women are employed in civil service (including fields of justice and law enforcement) – gender stereotypes and segregated occupational choices are behind this phenomenon. The reasons behind this are historically low salaries and/or low prestige of these professions that allow women to have a career in these institutions and experience less gender related barriers when advancing in their career paths.

The institutional classification of the sample professionals is following:

NFM - National fund managers/government officials with direct experience of EU funds:

Requested: 3, completed: 4

NHRB - National bodies with a human rights remit:

Requested: 3, completed: 2

CSO - Civil Society Organisations:

Requested: 3, completed: 4

1.2.3 Data Analysis

The responses of the ten interviewees were analysed under each topic of the interview in order to establish patterns, overlaps, or inconsistencies in the answers provided. If there were no significant differences between the professional groups, the findings were presented discussing the professionals as such without references to the subgroups (e.g. civil society experts, NHRB experts).

Since the questionnaire was detailed and covered a wide range of topics, no coding was used (and not required by the FRA) to analyse the data. No theoretical framework was used to analyse the interviewees' answers.

1.3 Roundtable discussion

The roundtable on fundamental rights and the EU funding cycle took place on the 29 August 2022 and was chaired by the Estonian Human Rights Centre. Following parties were represented at the event:

- two representatives from the State Shared Service Centre (hereinafter SSSC), one of them from the field of grants and implementation schemes
- three government level representatives:
 - Ministry of Finance - evaluation of equal opportunities within the framework of the national strategy Estonia 2035
 - Ministry of Social Affairs - Department of Equality Policies, competence on Gender Equality
 - Ministry of Social Affairs - Equality Competence Centre of the EU Cohesion Policy Funds, competence on gender equality and accessibility
- two NGOs:
 - Network of Estonian Non-profit Organisations, funding issues
 - Estonian LGBT Association.

As an introduction, think tank Praxis gave an overview of the conclusions of the Estonian study "The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds". This was followed by group discussions based on the predetermined methodology and questions provided by the FRA.

2 Implementation of EU funds: challenges and opportunities for fundamental rights

2.1 Overview: EU Funds in Estonia

The EU funds are managed centrally, without regional divisions. The national agency mostly involved in and leading the fund management is the Ministry of Finance (State Budget Department), which represents the **member state** in negotiations with the European Commission. The tasks of the Ministry of Finance include among other things technical assistance function of the managing authority, monitoring and evaluation.

Below is described the coordination system until recently. For the financing period 2021-2027 some changes to the system might occur. The tasks of the European Union Structural

Funds management authority are performed by the State Shared Service Centre (*Riigi Tugiteenuste Keskus*), a government agency under the Ministry of Finance, that is responsible for designing the process of applying for, granting, and controlling the use of grants and building the national system as the **managing authority**. In addition, it performs the functions of the **certifying authority** and the tasks of the **implementing agency** (*rakendusüksus*).

For the implementation of a specific priority or measure, a ministry is appointed to act as an **intermediate body** (*rakendusasutus*), which is responsible for achieving the objectives set by the Estonian Government. There are eight ministries that have been appointed as intermediate bodies.

The processing of grant applications, the formalisation of the necessary documents for the payment of the grant based on the decision to approve the grant and forwarding it to the certifying authority, as well as the monitoring of the grant allocated to the projects are the tasks of **the implementing agencies** (*rakendusüksus*), which work closely with the ministries as intermediate bodies and the State Shared Service Centre as the management authority. Among the implementing agencies there are six different government agencies.

The implementation of the structural funds of the European Union is controlled by an **auditing authority**, the role of which is performed by the Financial Control Department of the Ministry of Finance.¹

In addition to having a major role in the fund management structurally, the Ministry of Finance has also held considerable influence over deciding the funding objectives, priorities and measures of the funds. As one of our NHRB experts said:

I have seen how several ministries met around the table, presented the first versions of their measures and there was a reflection process. Important role and great impact in this process was held by the Ministry of Finance. My sense at that time was that the ministries had to "sell" their proposals to the Ministry of Finance. NHRB2

2.2 EU fund selection

In Estonia, for each EU funding cycle, a separate law and implementing regulations are adopted. The 2014-2020 Structural Assistance Act (*Perioodi 2014–2020 struktuuritoetuse seadus*)² only regulated structural funds, internal security policy funds were implemented under directly applicable EU regulations until the 2021-2027 funding cycle. The Act on the

¹ State Shared Service Centre (*Riigi Tugiteenuste Keskus*), [EL struktuuritoetuste rakendussüsteemi struktuur](#).

² Estonia, [2014-2020 Structural Assistance Act \(Perioodi 2014–2020 struktuuritoetuse seadus\)](#), 4 June 2014.

Implementation of the Cohesion and Internal Security Policy Funds of the European Union for the Period 2021–2027 (*Perioodi 2021–2027 Euroopa Liidu ühtekuuluvus- ja siseturvalisuspoliitika fondide rakendamise seadus*) was adopted by the Parliament (*Riigikogu*) on 23 February 2022.³

There is one national Operational Programme for cohesion policy funds (*ühtekuuluvuspoliitika fondid*), which include the European Regional Development Fund (*Euroopa Regionaalarengu Fond*), European Social Fund Plus (*Euroopa Sotsiaalfond+*), Cohesion Fund (*Ühtekuuluvusfond*), and Just Transition Fund (*Õiglase Ülemineku fond*). These funds are managed by the State Shared Service Centre (*Riigi Tugiteenuste Keskus*), which is a government agency under the administration of the Ministry of Finance.⁴

The rest of the funds – European Maritime, Fisheries and Aquaculture Fund (*Euroopa Merendus-, Kalandus- ja Vesiviljelusfond*), Asylum, Migration and Integration Fund (*Varjupaiga-, Rände- ja Integratsioonifond*), Internal Security Fund (*Sisejulgeolekufond*), Instrument for Financial Support for Border Management and Visa Policy (*Piirihalduse ja viisapoliitika rahastu*) – have separate programmes and are managed by other ministries, namely the Ministry of Rural Affairs⁵ and the Ministry of the Interior⁶.

According to the Cohesion Policy Funds Operational Programme 2014-2020 (*Ühtekuuluvuspoliitika fondide rakenduskava 2014-2020*), the inclusion process of non-governmental partners in the preparation of the partnership agreement and the operational programme was coordinated by the Ministry of Finance. The Ministry of Social Affairs and the Gender Equality and Equal Treatment Commissioner (Equality Commissioner) were involved as responsible for promoting social inclusion, gender equality and non-discrimination.⁷

Discussions and roundtables were organised on national and sectoral topics with the participation of partners and non-governmental experts. Public consultation on the preliminary draft of the Partnership Agreement and the Operational Programme took place in June 2013 within four weeks and it covered the choice of thematic objectives, the financing plan, the expected results, the coordination arrangements, and the consideration of horizontal themes (such as gender equality and similar). During the consultation, proposals were submitted by 15 different organisations or individuals. In summary, the proposals emphasised the need to pay more attention to ethnic minorities, youth unemployment, the capacity of social partners, synergies and coherence between funds,

³ Estonia, Act on the Implementation of the Cohesion and Internal Security Policy Funds of the European Union for the Period 2021–2027 487 SE (*Perioodi 2021–2027 Euroopa Liidu ühtekuuluvus- ja siseturvalisuspoliitika fondide rakendamise seadus 487 SE*), 23 February 2022.

⁴ Estonia, State Shared Service Centre (*Riigi Tugiteenuste Keskus*), [Euroopa Liidu ühtekuuluvus- ja siseturvalisuspoliitika fondide ülevaade](#).

⁵ Estonia, Ministry of Rural Affairs (*Maaeluministerium*), [Euroopa Merendus-, Kalandus- ja Vesiviljelusfond \(EMKVF\) 2021–2027](#).

⁶ Estonia, Ministry of the Interior (*Siseministerium*), [Välisvahendite kasutamine](#).

⁷ Estonia, Ministry of Finance (*Rahandusministerium*), Cohesion Policy Funds Operational Programme 2014-2020 (*Ühtekuuluvuspoliitika fondide rakenduskava 2014-2020*), 4 December 2014, p. 197-198.

regional balance, the promotion of gender equality, higher education and renewable energy. According to the Operational Programme, as a result of the public consultation, additions were made to the Partnership Agreement and the Operational Programme, among other things, more attention was paid to the regional dimension, capacity building of partners and the horizontal themes of gender equality and equal treatment.⁸

The inclusion plan for the 2021-2027 funding cycle is published on the website of the State Shared Service Centre. The inclusion plan states that from March 2018 to February 2020, there were numerous discussions within the framework of the preparation of the strategy "Estonia 2035", which, among other things, also addressed the needs and opportunities for funding from structural funds. The plan lists umbrella organisations included in the discussions, such as the Estonian Chamber of Disabled People (*Eesti Puuetega Inimeste Koda*), Estonian Academy of Sciences (*Eesti Teaduste Akadeemia*), Network of Non-Governmental Organisations (*Vabaühenduste Liit*), and the Gender Equality and Equal Treatment Commissioner.⁹

Partners are also included in the monitoring committee. The structural unit responsible for the monitoring committee is the State Budget Department of the Ministry of Finance, and meetings of the committee are held at least once a year. Members of the monitoring committee include representatives of different ministries, civil society, academics, and the Equal Treatment Commissioner.¹⁰

2.3 Challenges for fundamental rights

2.3.1 Civil society organisations

Three civil society organisations submitted opinions during the adoption process of the Act on the Implementation of the Cohesion and Internal Security Policy Funds of the European Union for the Period 2021–2027 (*Perioodi 2021–2027 Euroopa Liidu ühtekuuluvus- ja siseturvalisuspoliitika fondide rakendamise seadus*). One of the changes made in this act was that while the act on the previous funding cycle used the phrase "horizontal themes", which was defined as concerning the objectives of environmental protection, equal opportunities, information society, regional development or state governance, the new act instead refers to "strategic goals and basic principles" approved in the long-term national development strategy "Estonia 2035". According to the explanatory memorandum, these

⁸ Estonia, Ministry of Finance (*Rahandusministeerium*), Cohesion Policy Funds Operational Programme 2014-2020 ([Ühtekuuluvuspoliitika fondide rakenduskava 2014-2020](#)), 4 December 2014, p. 199.

⁹ Estonia, State Shared Service Centre (*Riigi Tugiteenuste Keskus*), [2021-2027 planeerimine](#).

¹⁰ Estonia, European Union structural assistance (*Euroopa Liidu struktuuritoetus*), [Seire](#).

strategic goals and basic principles include, in addition to the previously listed values and goals, also the Estonian language, culture and security.¹¹

The Estonian Human Rights Centre (*Eesti Inimõiguste Keskus*) submitted an opinion explaining that they perceive a significant setback in the draft act, since it does not include the requirement for the use of funding to promote equal treatment, accessibility and gender equality as horizontal themes, as was done in the act concerning the previous funding cycle.¹²

The Estonian Women's Studies and Resource Centre (ENUT) also expressed concern that the draft act does not include requirements for the promotion of gender equality as a horizontal principle.¹³

Feministarium (NGO Oma Tuba) also suggested to include the promotion of gender equality as a horizontal theme. They explained in their opinion that even though the Ministry of Finance has said that the principle of gender equality is to be linked to the "Estonia 2035" strategy, such a solution raises doubts in terms of promoting gender equality, given that there is no explicit reference to gender equality in either the basic principles or targets of "Estonia 2035" strategy.¹⁴

There are no available civil society reports on fundamental rights concerns related to specific funds.

2.3.2 Academia

No academic writings on fundamental rights in relation to EU funds in Estonia were identified after a search through various academic databases.

2.3.3 Governments

In 2013, the Ministry of Finance commissioned an ex-ante evaluation into the draft Partnership Agreement and the draft Operational Programme for Cohesion Policy Funding for the period 2014–2020. The study found that a number of objectives and activities will have the expected positive impact of promoting the horizontal principles, equal opportunities and sustainable development. However, the implementation of those

¹¹ Estonia, Explanatory memorandum to the Draft Act on the Implementation of the Cohesion and Internal Security Policy Funds of the European Union for the Period 2021–2027 ([Perioodi 2021–2027 Euroopa Liidu ühtekuuluvus- ja siseturvalisuspoliitika fondide rakendamise seaduse eelnõu seletuskiri](#)), p. 4.

¹² Estonian Human Rights Centre (*Eesti Inimõiguste Keskus*), [Eesti Inimõiguste Keskuse arvamus perioodi 2021–2027 Euroopa Liidu ühtekuuluvus- ja siseturvalisuspoliitika fondide rakendamise seaduse eelnõu kohta](#), 4 May 2021.

¹³ Estonian Women's Studies and Resource Center (*Eesti Naisuurimus- ja Teabekeskus*), [ENUTi ettepanek Perioodi 2021–2027 Euroopa Liidu ühtekuuluvus- ja siseturvalisuspoliitika rakendamise seaduse eelnõule](#), 3 May 2021.

¹⁴ Estonia, Feministarium (MTÜ Oma Tuba), [Seisukoht struktuurivahendite asjus](#), 28 April 2021.

principles is not purposefully managed. Apart from some exceptions (employment and education-related topics), the analysis of the factors that require intervention fails to highlight differences in the situation of women and men.¹⁵

The study also pointed out that similar to the involvement of other partners, the Office of the Equal Treatment Commissioner was included in the process of drawing up the EU Funds Partnership Agreement and the Operational Programme for Cohesion Policy. It was on the Commissioner's own initiative to be included. In spring 2013, the Commissioner met with representatives of the Ministry of Finance and attended a thematic meeting of the European Commission. The Commissioner's Office also participated in a public consultation seminar on the planning process. In June 2013, the Office of the Commissioner submitted their proposals and comments to the draft Partnership Agreement and the draft Operational Programme. None of the proposals submitted by the Office of the Commissioner had been taken into account by September 2013 and the Commissioner's Office had not received any feedback or justification for not doing so.¹⁶

The State Shared Service Centre publishes statistics on irregularities detected in the use of the EU funds.¹⁷ However, the data only includes a general description of the irregularity (such as "inadmissible or unjustified expenditure", "failure to organise a public procurement"), there are no fundamental rights issues to be identified.

As a positive example, it can be outlined that the Equality Competence Centre of the European Union Cohesion Policy Funds (*Ühtekuuluvuspoliitika fondide võrdõiguslikkuse kompetentsikeskus*), currently functioning under administration of the Ministry of Social Affairs, has published various materials on how to promote equal treatment principles during the use of EU funds. For example, in 2020, the centre published a booklet "Best practices for creating equal opportunities", which includes good examples of projects preventing discrimination and ensuring access for people with disabilities from the 2014-2020 funding cycle.¹⁸

The Equality Competence Centre has also commissioned an analysis on the awareness of gender equality and equal opportunities of fund implementors, their motivation to advance these topics with projects and opportunities for the future.¹⁹ The Competence Centre with their audits and research has been able to draw attention to some breaches of fundamental rights. For instance, their audit about the use of EU funds in 2014-2020 and accessibility

¹⁵ Centre for Policy Studies Praxis, CPD Arenduskeskus (2013), [2014–2020 perioodi ELi vahendite kasutamise eelhindamine](#), Tallinn, p. 7.

¹⁶ Centre for Policy Studies Praxis, CPD Arenduskeskus (2013), [2014–2020 perioodi ELi vahendite kasutamise eelhindamine](#), Tallinn, p. 100.

¹⁷ Estonia, State Shared Service Centre (*Riigi Tugiteenuste Keskus*), [Struktuuritoetuste kasutamisel avastatud rikkumised](#), 22 September 2021.

¹⁸ Estonia, Ministry of Social Affairs (*Sotsiaalministeerium*) (2020), [Parimad viisid võrdsete võimaluste loomiseks](#).

¹⁹ Haap Consulting (2021), [Sooline võrdõiguslikkus ja võrdne kohtlemine struktuuri- ja investeerimisfondidest rahastatud projektides: toetuse kasutajate teadlikkus, motivatsioon ja selle suurendamise võimalused](#), December 2021.

for disabled people identified some issues with developments of public spaces and the use of EU funds.²⁰

2.3.4 Other

In its 2019 report on access to legal aid for asylum-seekers in Estonia, UNHCR has reported that many asylum-seekers interviewed during monitoring visits to the asylum-seekers' accommodation centre pointed to difficulties in communicating with the legal counsellor funded by the Asylum, Migration and Integration Fund (AMIF), as well as that the counsellors do not provide legal advice on the merits of an applicant's asylum claim, assist in preparations for asylum interviews, or help in preparing responses to drafts of preliminary decisions by the asylum authority.²¹

During the funding cycle 2014-2020, AMIF funding was also used for provision of state legal aid in international protection proceedings and subsequent administrative proceedings. According to UNHCR, monitoring visits to the Estonian immigration detention centre revealed that, when asked about state legal aid, asylum-seekers complained of seeing their lawyer either not enough or not at all. According to interviewed asylum-seekers, the state-appointed lawyer preferred to communicate indirectly through the detention centre's counsellor. In June 2018, UNHCR witnessed the case of a detained applicant from Uganda who was provided with a state legal aid lawyer but who never gained the opportunity to meet and discuss his case with his lawyer prior to the court hearing concerning his detention. In the end, the administrative court authorised the extension of the applicant's detention beyond the first 48 hours for another two months.²²

UNHCR was also made aware of a case in 2017, which concerned a family of asylum-seekers from Albania who were unable to meet with the lawyer appointed to them either before or after their hearings in court. During the whole appeal process, the lawyer communicated with the family only via email and in English (a language which the family members did not understand). When the court rejected the appeal, the family received an email from their lawyer with the text of the judgment without a thorough explanation of the decision. The family sent several requests for assistance and complaints to their lawyer, but received no response.²³

In 2018, the European Ombudsman investigated the implementation of Article 74(3) of Regulation 1303/2013 on the effective complaint mechanism concerning the European Structural and Investment Funds in Member States. In response to the European Ombudsman's question, the Estonian Chancellor of Justice (*Õiguskantsler*) replied by

²⁰ MTÜ Ligipäasetavuse foorum (2018), [Ligipäasetavuse analüüs perioodil 2014–2020 struktuuritoetustest rahastatud projektides](#).

²¹ UN High Commissioner for Refugees (UNHCR), [Access to Legal Aid for Asylum-Seekers in Estonia](#), July 2019, p. 41-42.

²² UN High Commissioner for Refugees (UNHCR), [Access to Legal Aid for Asylum-Seekers in Estonia](#), July 2019, p. 51.

²³ UN High Commissioner for Refugees (UNHCR), [Access to Legal Aid for Asylum-Seekers in Estonia](#), July 2019, p. 54-55.

describing the general complaint procedure. The Chancellor of Justice explained that in Estonia, a general complaint mechanism on administrative matters is regulated by the Administrative Procedure Act (*Haldusmenetluse seadus*) and by the Code of Administrative Court Procedure (*Halduskohtumenetluse seadustik*), whereas some specific norms on complaint mechanisms for matters concerning the European Structural and Investment Funds are stipulated in other laws such as the 2014-2020 Structural Assistance Act. A person who finds that their rights are violated by an administrative act or in the course of administrative proceedings may file a challenge. In cases concerning European Structural and Investment Funds, a challenge should be adjudicated within 30 days after the challenge is delivered to the administrative authority that reviews the challenge (the administrative authority which exercises supervisory control over the administrative authority which issued the challenged act). A person whose challenge is dismissed or whose rights are violated in challenge proceedings has the right to file an appeal with an administrative court. The Chancellor of Justice explained that during the last years, the Chancellor has received only a few complaints regarding to the European Structural and Investment Funds or the adequacy of the complaint mechanisms in place. The complaints have mainly concerned authorities' inability to adjudicate a challenge within the time prescribed by law. However, the Chancellor of Justice has not received enough complaints to make any substantive conclusions on the functioning of the complaint mechanism.²⁴ The mandate of the Chancellor of Justice involves verifying whether any state agency or body performing public duties observes the principles of ensuring fundamental rights and good administrative practice.²⁵

2.3.5 A list of the main fundamental rights issues, if any, by fund

Based on the report by UNHCR, there could be issues with the quality of services funded by AMIF offered to asylum-seekers, which have the potential to infringe the right to asylum (Charter of Fundamental Rights Article 18), especially when it comes to important services such as legal aid. However, there is not enough publicly available information to make any conclusions.

According to the ex-ante evaluation into the draft Partnership Agreement and the draft Operational Programme for Cohesion Policy Funding for the period 2014–2020, the Equal Treatment Commissioner was not effectively involved in the process of drafting the Partnership Agreement and the Operational Programme. The study also found that horizontal principles were not purposefully managed in the planning process and the differences in the situation of women and men was not sufficiently analysed.

²⁴ Estonia, Chancellor of Justice (*Õiguskantsler*), [Reply from the Chancellor of Justice of Estonia in Strategic Initiative SI/3/2018/JN: effective complaint mechanisms for matters concerning European Structural and Investment Funds – follow-up to OI/8/2014/AN](#), 12 December 2018.

²⁵ Estonia, [Chancellor of Justice Act \(*Õiguskantsleri seadus*\)](#), § 19 (1), 25 February 1999.

2.4 Proposed Funds

Based on the desk research, the proposed funds to focus on were the Cohesion Policy Funds and AMIF. The Cohesion Policy Funds have a combined programme in Estonia, which made it reasonable to investigate them in a combined way. In addition, the Equality Competence Centre of the European Union Cohesion Policy Funds covers all the Cohesion Policy Funds. As the Competence Centre used to be under the administration of the Equal Treatment Commissioner it was important to investigate what its status is now and why it was moved to the Ministry of Social Affairs.

As the above-mentioned UNHCR report potentially gives rise to fundamental rights concerns regarding AMIF, it was important to interview civil society organisations and other stakeholders for more information.

3 The role of national bodies with a human rights remit in ensuring fundamental rights compliance of EU funds

3.1 National bodies with human rights or equality remit

In Estonia, there are two national bodies with a human rights and/or equality remit – the Chancellor of Justice (*Õiguskantsler*) and the Gender Equality and Equal Treatment Commissioner (*Soolise võrdõiguslikkuse ja võrdse kohtlemise volinik* (hereinafter the Equality Commissioner or the Commissioner).

The Chancellor of Justice is the National Human Rights Institution (NHRI), one of the two national equality bodies and monitors the implementation of the Convention on the Rights of Persons with Disabilities (CRPD). In addition, the Chancellor of Justice verifies that laws and regulations are in conformity with the Constitution and other laws and supervises authorities and officials performing public duties to ensure they do not violate people's constitutional rights and freedoms.²⁶

According to the experts, Chancellor of Justice has not actively been involved in the EU funds management nor monitoring – they have not been part of the national monitoring committee so far and will not be in the future, due to the possible conflict of interest. The Chancellor of Justice has recently analysed the proposal by the Ministry of Finance to join the national monitoring committee for the cohesion funds and realised that they cannot be

²⁶ Estonia, [Chancellor of Justice Act](#) (*Õiguskantsleri seadus*), 25 February 1999.

part of the process to design legislation and then verify constitutionality of the same legislation. This is expressed in the following quote by the expert. However, the expert misinterprets the legal task of the Equality Commissioner equalling it to the task of verifying constitutionality by the Chancellor of Justice. The Commissioner may give an opinion whether a legal act is discriminatory, may also analyse the impact of laws on the situation of minorities and the gender impact of the laws and lastly make proposals to the Government of the Republic, government authorities, local governments and their authorities for alteration of and amendments to legislation. The Commissioner is not, however, routinely reviewing all legislative drafts.

The Gender Equality and Equal Treatment Commissioner and the Chancellor of Justice carry out general monitoring for fundamental rights on the national level. They could not perform this kind of supervision if we would make them part of the coordination/consultation process [of legislation that is in development]. You cannot first coordinate and then supervise. This is a conflict. NFM2

For the upcoming funding period 2021-2027 there is an agreement that the Chancellor of Justice will report about any official complaints and/or issues that they notice regarding the EU funding and fundamental rights to inform the monitoring committee meetings.

The Gender Equality and Equal Treatment Commissioner is an independent and impartial expert who monitors compliance with the requirements of the Equal Treatment Act (*Võrdse kohtlemise seadus*)²⁷ and the Gender Equality Act (*Soolise võrdõiguslikkuse seadus*)²⁸ and performs other functions imposed by law, such as advising and assisting persons upon filing of complaints regarding discrimination and providing opinions concerning alleged cases of discrimination, and making proposals to the government for amendments to legislation. The Commissioner does not impose any penalties or determine any compensations, but the Commissioner's opinion can be used as an expert opinion in court.²⁹ The Commissioner is also part of the national monitoring committee for the cohesion policy funds and has been invited (but has not accepted) an invitation to be part of the AMIF monitoring committee.

In 2015, the Equality Competence Centre of the European Union Cohesion Policy Funds (*Ühtekuuluvuspoliitika fondide võrdõiguslikkuse kompetentsikeskus*, hereinafter Competence Centre) was created and placed to operate under the command of the Equality Commissioner. The Competence Centre is a consulting and training unit whose task is to raise awareness of gender equality and equal treatment (including accessibility for disabled people) among entities using and coordinating structural funds, and to promote and support consideration of these principles in the development and implementation of measures. The Competence Centre provides consultation to intermediate bodies (*rakendusasutused*), which develop the terms and conditions for granting support, and

²⁷ Estonia, [Equal Treatment Act \(*Võrdse Kohtlemise Seadus*\)](#), 11 December 2008.

²⁸ Estonia, [Gender Equality Act \(*Soolise võrdõiguslikkuse seadus*\)](#), 7 April 2004.

²⁹ Estonia, Website of the Gender Equality and Equal Treatment Commissioner (*Soolise võrdõiguslikkuse ja võrdse kohtlemise volinik*), [Meist](#).

implementing agencies (*rakendusüksused*), which organise the procedure for applications for support and communicate directly with the beneficiaries. The centre also offers trainings and publishes guiding materials on principles of gender equality and equal treatment.³⁰

From the moment the Competence Centre was created we were very much "at the table" [of those responsible], to improve the implementation system of the European structural funds, especially regarding gender equality and equal opportunities... One thing is what the Competence Centre did vis a vis with officials – [we prepared] trainings, guidelines. In addition, the Commissioner took action so that the Ministry of Finance would take into account the horizontal topics including gender equality. We were constantly pressuring the Ministry of Finance (to consider the horizontal topics) in structural funds design.

NHRB2

In 2019, the Competence Centre was moved to operate under the administration of the Ministry of Social Affairs. According to our expert interviews, the move of the Competence Centre from the Commissioner's Office to the Ministry of Social Affairs happened due to several reasons. First, with the new Commissioner in the office (starting from 2015), the motivation of the institution to be engaged with EU funds issues decreased. Second, the Commissioners' Office, as an independent governmental agency, does not have access to the information the ministries do, especially regarding to the interministerial legislative coordination process. As an expert said:

One reason was that the preparation for the new funding period had started and this location in the ministry [rather than the Commissioner's Office] was a logical one because a lot of the information exchange was with other ministries and with the European Union Affairs and International Co-operation Department. All the exchange of information, how to say it... All the ministries were in the same information system, and this was one important reason [to move]... NFM3

Some voices among the NFM and CSOs experts expressed the wish for the Chancellor of Justice to be involved in the design phases of the funds and provide consultation and support in the legal development phase. However, technically this could not be possible currently, as the mandate of the Chancellor of Justice does not include consultations for the development of legislation. It was expressed several times by the experts that to avoid greater damage and violations, the fundamental rights issues should be taken into

³⁰ Estonia, Equality Competence Centre of the European Union Cohesion Policy Funds (*Ühtekuuluvuspoliitika fondide võrdõiguslikkuse kompetentsikeskus*), [About us](#).

consideration in the planning phases of the funds. Also, an NHRB expert expressed similar sentiments.

Fundamental rights context is naturally of great importance. It is more affordable for the state also to solve all the bottlenecks (regarding fundamental rights) before starting to implement policies/projects, rather than to fix them later, when the Chancellor of Justice or somebody else has pointed them out. NHRB1

Although it was considered that it would be desirable that the Chancellor of Justice to be included in the legislation development phase, it was also considered unrealistic by experts. One of the reasons mentioned above was a possible conflict of interest, the second was a lack of resources.

However, I cannot imagine that the Chancellor's or Commissioner's Office would have this time to consult on all of this in the planning stage. Perhaps educating our civil servants more about these issues could be a possible solution to prevent any violations. CSO3

As of now, the Competence Centre operates under the Ministry of Social Affairs and attempts to examine all legislative proposals regarding the cohesion policy funds that reach the official consultation round (with ministries, stakeholders and interest groups) with a focus on gender equality, equal opportunities, and accessibility. However, the Competence Centre has limited staff capacity (three employees) and they do not offer consultations for policy makers in the legislation design phase.

3.2 EU funds related challenges of the fundamental rights in Estonia

In the ten interviews that were conducted with the civil servants, CSO activists and NHRB representatives all interviewees had troubles remembering any complaints, bring up major fundamental rights breaches and considered themselves not the most competent person to talk about the topic. Despite the recurring theme of insecurity and trouble naming challenges regarding EU funds in connection of fundamental rights and NHRBs action, some themes occurred several times during the interviews.

3.2.1 Civil Society inclusion, EU funds and fundamental rights

- CSO inclusion by the government is formal
- Feedback not given for CSOs in the consultation processes by the government
- Small number of CSOs deemed having the capacity to be included in formal legislative processes by the authorities
- CSOs lack capacity (staff, know-how) to be partners to the government sector

Two CSOs in our sample were advocacy organisations that were members of the national cohesion fund monitoring committee, and two others were renown organisations in their field that had been the beneficiaries of EU funding. In all four CSO interviews, the topic of dissatisfaction with the inclusion process of the civil society organisations to the policy making processes and the EU funds management arose prominently.

The first critique was that at the monitoring committee, Operational Programme creation and other funds related legislation development, inclusion of the civil society partners is formal, and discussions do not happen, even if the CSO organisations are officially included and have voting rights (in case of the monitoring committee).

In the national as well as sectorial monitoring committees, meaningful inclusion/engagement with partners does not happen. The inclusion is for the sake of ticking a box, to demonstrate that the civil society partners were included. CSO1

For me, inclusion means co-creation, not just giving feedback [to ready-made plans]. We should call things as they are. For civil society organisations, it is difficult to contribute to the content. CSO2

Some experts from CSOs and NHRB expressed that even if they made efforts to give feedback, they have not always received response from the state agencies about the reasoning of why their proposals are not accepted.

On several occasions, our organisation has given feedback to the Ministry of Interior that the inclusion process is formal. Usually, the action plans are ready and only formal written feedback is collected, sometimes [this feedback] is taken into consideration, sometimes not. CSO2

In one case, the respondent described a situation where absolutely no response was given to them in a major public consultation process.

I remember this process and composing a letter. This was a very sad story. It is a topic of inclusion. The Ministry of Finance was consulting the wider public about the Operational Programme and Partnership Agreement development. It was a wide consultation process, and anybody could give feedback. The Commissioner's Office also gave feedback. This consultation was done directly before the St John's Day (major summer holiday after which the vacations start). And we were biting the bullet and did the proposals (for the given deadline). Our letter was very substantial, several pages of concrete proposals. And we never received any response, and I cannot remember that any time later we'd discovered that anything was accepted (from our proposals). NHRB2

This kind of behaviour from the state agencies was demotivating for the partners and one of them expressed that their organisation does not bother to engage in consultations anymore, because they do not believe that their input is really wanted and they do not believe that their feedback is taken into account, even if they make the effort to submit it.

The Operation Programme creation was seen as a fight for resources between different government agencies where other actors are not involved. This is mostly since CSOs are not sufficiently informed and lack expertise, especially in more general, policy level processes. It has been easier for CSOs to participate in discussions on more practical topics – how exactly and who can apply for funds.

The operational programme creation has been more of a fight between the ministries [about the resources]. The drafts sent to the public are with such a level of generalisation that the NGOs do not have any competence to say how so large sums of money should be best distributed [on the national level]. Should we build this huge railway or put the money in the social sphere instead? CSO1

The second important reason why the NGOs are not actual partners is the lack of capacity – there is not enough expertise nor staff to be actively involved and the state agencies are not making real efforts for the CSOs to participate. This makes the actual participation in the discussions not possible. Government officials are not usually proactively searching for input and partnership from NGOs and assume the same expertise level and time resource as from the civil servants professionally engaged in the fund management.

I have had the same issue as the rest of the civil society - we have not had enough capacity to participate properly in discussions. Hundreds and thousands of pages to work through and only me doing that. CSO1

If inclusion is done in a targeted way, one gets the input, otherwise not. Because I have only a few people and nobody has time to surf (in the long list of) Google Drive links and documents. Not because this topic is not interesting but because there are many important issues, and I am choosing my battles and I am not entering into a fight with kilometres-long documents. CSO3

The technical aid funds from the structural funds have been used by the state agencies and only recently there have been some plans to distribute more technical aid funds also for the CSO partners.

The third dissatisfaction was the preference of the state agencies to work with a limited number of CSOs that fulfil their expectations. This limits the range of organisations that benefit from the funds and does not encourage grassroots organisations to get involved with the structural funds. One of the organisations expressed that the ministry is “grooming” selected CSOs and felt great frustration.

The most fundamental issue to me is that it is encouraged that we have 2-3 NGOs that are supported (by the Ministry), that have the capacity, and this kills grassroots initiatives big time. We have seen it, as we are cooperating and supporting smaller organisations, how the spark fades in their eyes and they do not bother to act anymore, because they realise it is pointless. And in the end, I am like... if in the Ministry, you want everything to be done according to you, make your own subdivision. CSO4

At the same time, a national fund manager representative had a different opinion of the inclusion process and expressed that they are open, informing the public and doing a lot to include partners.

We include partners as much as possible and are open in our inclusion processes. We have a weekly information session, monthly newsletters, we share the info that comes to us from the EU with implementing agencies. We communicate all the time and give opportunities to communicate with us. NFM2

It is significant to note that dissatisfaction with the inclusion process from the CSOs was very prominent in all the interviews. During the talks, a lot of the time and space was taken to express the frustration with inclusion and consultation processes by the CSOs. Organisations that deal with advocacy and fundamental rights issues did not feel that they were considered as partners and co-creators in the EU funds design process, their feedback was ignored, and they felt they lack capacity and expertise to engage properly, and the policy design processes were going “over their heads”.

This tendency should be noted. One can ask if the CSOs and experts who are involved in advocacy work do not feel that they are partners in the fund management processes, are the fundamental rights really protected?

3.2.2 EU funds and official complaints

- Low awareness about possibilities to complain
- Trust in existing complaint systems
- Very few complaints
- Complaint systems not deemed efficient tools to influence EU funds management processes
- Breaches of fundamental rights discovered by audits

Our desk research and expert interviews did not reveal any noteworthy official complaints about the EU funds and breaches of fundamental rights³¹ to the Chancellor of Justice, the Equality Commissioner, or court cases. There are no special complaint mechanisms set up regarding the EU funds (and fundamental rights). It was noted that one can complain about the specific projects to the implementing agencies and intermediate bodies. Also, the State Shared Service Centre as the management authority has authority to assess the complaints and act:

One can always turn to us (SSSC) with all kinds of complaints. We cannot impose a criminal sentence, but we can do quite a bit. If there is a suspicion, we can stop remunerating the costs. We can demand back the grant, redesign the measure. NFM2

Our experts from the civil society organisations as well from national fund management agencies agreed that Estonian legal system and courts operate well, so anybody who feels that their rights are compromised can use the general court or the alternative complaint systems to seek for justice.

My opinion about the general situation is that access to administrative proceedings and to the courts is good and relatively fast. We have the Chancellor of Justice that works very well, and people are aware of this institution and the Chancellor of Justice also informs people and very patiently directs them to complain to other institutions if the Chancellor of Justice is not the right place for the complaint. CSO1

It was also expressed by other CSO representatives that they do not know about the complaint systems; have not felt they need to know but assume that info about the procedures could be found once they feel the need to complain:

This I really do not know (how the complaint process works)... In general, I can say that the information about it is available, so if I am in a situation that I need to turn somewhere to protect my rights, then (I know that) this info is accessible. CSO3

General trust in national court and complaint mechanisms and availability of information was expressed by CSOs as well as one representative of a national management authority.

³¹ There was one complaint to the Chancellor of Justice about the age restriction (why a EU funded program is available for youth only) but this restriction was considered justified after analysis by the Chancellor of Justice (opinion number 7-6/171255/1704419 www.oiguskantsler.ee/sites/default/files/field_document2/Erinev%20kohtlemine%20vanuse%20alusel.pdffallikas).

However, there was also an understanding by the CSO experts that complaining, and court procedures take a lot of energy, resources and it is the last resort to solve problems.

One of the NHRB experts expressed doubts if the lack of complaints was really because there are no violations of fundamental rights, or if it is rather due to the lack of information about the possibilities to complain:

"It is difficult to assess whether the situation that the Chancellor of Justice has not received any complaints comes from the fact that the committees are working well or that people are not aware that they have the right to complain. I rather think it is the latter case... It is never too much to inform people about the possibilities for submitting complaints... Naturally these committees are not interested that people would know too much about the possibilities how to complain. But this is still good governance practice [to inform about possibilities for complaining]." NHRB1

There was a notion by an NHRB expert that influencing EU funds through complaints is not an efficient way to have an impact to the fund's implementation in Estonia. It is rather more important to include and be very clear about the fundamental rights and related issues in the legislation of the funds. According to the expert, it is crucial to provide support for the officials and agencies implementing the funds how to avoid any violations of fundamental rights.

Influencing is when it is demanded (legally) that you need to provide accessibility (with your project) and then the Competence Centre can support you... with expertise and how to do it and it also does some convincing. I feel that, if it is written down in legislation and especially on the EU level, we do not have problems in Estonia to follow it. We do not have this that the legislation is ignored. It is another question how thoroughly and meaningfully it is followed. NHRB2

The interviewed experts often expressed confusion and lack of knowledge about the official complaints regarding EU funds implementation and fundamental rights. It was often referred in the interviews by the NFM experts that ministries might know about the breaches of fundamental rights and complaints about projects because as intermediate bodies they might receive these directly. Because there was lack of knowledge about the complaints, there was also no information about the issues in the complaint procedures or proposals for improvement by the interviewees.

However, some problematic issues regarding fundamental rights and EU funds use were mentioned in other contexts than complaints. For instance, an NHRB expert referred to a study that was conducted about the renovation of central squares of various cities of

Estonia and accessibility.³² According to this study, in all the EU funded renovation projects, accessibility to these public spaces was not designed and ensured. The violations were in different degrees and existed in all projects.

Also, an issue with accessibility to facilities of one training was mentioned, as well as language related issues. Namely, an NFM expert brought out an issue related to the support services offered to persons with intellectual disabilities whose mother tongue is not Estonian. For this group of people accessing services (that are often EU funded) is very difficult, due to lack of Russian speaking staff. As a result, non-Estonian speaking disabled people are not benefitting from the funds, they are excluded and there is not even proper overview about their situation and needs. Therefore, a new study was initiated by the Competence Centre recently to clarify how non-Estonian speakers benefitted from EU funds with a hope to influence the measures to be more useful to non-Estonian disabled people.

In conclusion, although there seems to be a lack of official complaints regarding breaches of fundamental rights in the context of EU funds, one can ask if this is due to lack of violations or lack of information and resources to complain. It should be taken into account that the intermediate bodies are not so keen on sharing information about the complaint options and some problematic issues regarding fundamental rights have emerged in other contexts (i.e. research by the Competence Centre).

3.2.3 AMIF

- Concerns about most of fund going to the Police and Border Guard

Our interviews brought out similar concerns about the possible misuse of the AMIF as the desk study. Two CSO experts were concerned about the AMIF and expressed that enormous amount of AMIF funds go directly to the Police and Border Guard Board and rarely there are application rounds open for the NGOs. Concerns about the violation of intended purpose of these funds was talked about.

For me, it is questionable to use AMIF funds for the Police and Border Guard Board's capacity raising for building the border and guarding the border and other such activities. But I cannot answer exactly as not all the information about this distribution of funds is public. CSO2

There have been studies conducted about the use of the funds in different programmes and I remember again one about AMIF where one of the critiques of the study about AMIF was that most of the money is used for activities where it is not entirely clear if these are in accordance with the main objectives of the fund. CSO2

³² MTÜ Ligipäasetavuse foorum (2018), [Ligipäasetavuse analüüs perioodil 2014–2020 struktuuritoetustest rahastatud projektides](#).

3.2.4 New National Strategic Objectives for 2021-2027

- Concerns about strategic objectives becoming too general

In the funding period 2014-2020, three fundamental rights related issues – gender equality, equal opportunities and accessibility – were considered important objectives for structural funds and made into horizontal topics written into the funds’ legislation, project implementation and reporting systems. During this funding period, the implementation of the funds in all levels had to take into consideration these horizontal topics.

As mentioned above, every funding cycle has its own legislation. The new 2021-2027 cycle has significantly changed approach to strategic objectives for the EU funds and some of our CSO and NHRB experts talked in the interviews about the possible challenges to fundamental rights due to this. With the upcoming 2021-2027 funding cycle, the EU funds were harmonised with the long-term national action plan “Estonia 2035” where strategic objectives are defined very generally. In the new funding period, none of the fundamental rights issues are brought out as a horizontal topic. There was a careful concern expressed by 2 experts (NHRB2, NFM3) that the national and EU funds’ strategic objectives are too general and broad and therefore there is a potential for the equality issues to be lost and not receive due attention in the new funding period.

4 Critical success factors

- Gender equality, equal opportunities, accessibility are written into **legal framework and conditions**, as complaints are not so useful tool for influence.
- **Reporting** designed with impact indicators to measure the success of the fundamental rights.
- The Competence Centre and its efficient work by **providing support and advice** to experts implementing the funds (legal consultation, trainings for officials, guidelines, support materials, research about fundamental rights and EU funds).
- Maintaining the **independence of the NHRBs** without conflict of interest so that they can manage complaints and supervision, when requested.

In Estonia, the NHRBs seem not to be very actively involved with the EU funds. The Competence Centre was part of the Commissioner’s Office only between 2014-2019 and is currently under the Ministry of Social Affairs. The Commissioner has not been actively involved with EU funds issues since 2016, due to change in personnel and priorities. Moreover, complaining as a tool is not seen efficient to influence EU funds neither by the NHRBs nor the CSOs. There are no special experts nor resources devoted to the EU funds at either of the NHRB offices.

What has previously proven to be efficient in advancing fundamental rights in the EU funds context is that (selected) fundamental rights themes – gender equality, equal opportunities and accessibility for disabled persons – have been written into the legal framework and

conditions of the funds. It was considered by a NHRB expert that this approach brings political support and the actors implementing the funds then make efforts to advance the fundamental rights.

What is happening in a member state depends on how the conditions in the general statutes and fund regulations are set. If it is not mentioned that gender equality and equal opportunities need to be kept in mind, then a member state might not deal with these topics. The EU level legislation has an important role. Moreover, if the European Council as the highest political decision-making body says that we have the commitment and we want that the use of the EU structural funds be done using gender mainstreaming and minority rights are emphasised, then the member states will deal with these topics. NHRB2

Another national fund management expert commented that it has been very positive that the fundamental rights were included in the Common Provisions Regulation and EU Commission issued guidelines in the previous period how to implement fundamental rights. As a result, these topics received more attention on the national level.

Additional important factor related to the legal framework and conditions was considered design of the reporting. As of now, the funding conditions regarding reporting have been descriptive and rather superficial. It is difficult to measure the impact of the implemented projects and their impact to fundamental rights. The NFM experts see impact-oriented indicators as one success factor to advance the influence EU projects, including their fundamental rights aspects. There is an aspiration to redesign the whole funding system to be more impact oriented on project design, implementing as well as reporting levels in the 2021-2027 period.

Civil servants' awareness raising about different aspects of the fundamental rights was considered very important by several interviewees. The Competence Centre and their activities were considered as a success by several NFM and an NHRB interviewees. Their guidelines, trainings and consultations have provided significant support for the project implementors and policy makers. Considering their very limited resources of three staff members, their impact was considered significant and work useful for other experts.

One of the national fund management experts also suggested that the Gender Equality and Equal Treatment Commissioner and the Chancellor of Justice could give more trainings and awareness raising guidelines about the fundamental rights as it is sometimes difficult to for the officials to understand abstract ideas about dignity, equal opportunities. These need to be explained to be understood in the same way.

The independence and lack of conflict of interest was also considered critical success factor by the NFM as well as NHRB representatives. The Chancellor of Justice as an institution has a very high authority in the Estonian society as it is an independent organisation with a mandate given by the Constitution. The authority of the Chancellor has considerable

influence in the society and in a small country like Estonia many of the fundamental rights issues that come up are solved through a letter or even phone calls by the Chancellors' advisors to public authorities without official complaint mechanisms.

5 Conclusion

This report and its conclusions are based on interviews that dealt with EU funds mostly from the previous period of 2014-2020. It was emphasised in the roundtable discussion with experts that as of the autumn 2022, with the commence of the new funding period and updated programme documents and funding conditions, some of the recommendations given below have been already enforced. The awareness raising activities and trainings for civil society representatives as well as for the government representatives continue and will be somewhat expanded. The main development with the upcoming period is that in the new period a checklist is used to ensure that all legislative acts developed in the framework of the structural funds are in accordance with the Charter. All funding conditions as well as projects will be evaluated to analyse the compliance with the Charter.

In the Estonian context, the two NHRBs – Chancellor of Justice and Equality Commissioner – are not currently actively involved with EU funds. There are several reasons behind it, one of them being that there is a potential for conflict of interest. Therefore, two suggestions are to:

- Maintain the **independence of the NHRBs** without conflict of interest so that they can manage complaints and supervision, when requested.
- Instead of expanding the role of the Chancellor of Justice, it would be necessary to encourage the monitoring committee to express itself more vocally, as well as a supportive party that would help with the review of the checklist and inform about breaches.

There has been a very low level of official complaints regarding the EU funds and fundamental rights. Filing official complaints is not seen as an effective tool to influence the management and implementation of the EU funds. Although there is a high level of trust in the legal system, the recommendations are to:

- Share more information and raise awareness about the **possibilities to file complaints** in case there is a suspicion of a breach of rights.
- Ensure that gender equality, equal opportunities, accessibility are written into **legal framework and conditions**, as complaints are not so useful tool for influence.

The work of the Competence Centre to **provide support and advice** to experts implementing the funds (legal consultation, trainings for officials, guidelines, support materials, research about fundamental rights and EU funds) has been considered efficient. It is recommended to:

- **Continue to educate and raise awareness** about fundamental rights of the officials and experts implementing EU funds. Extra attention should be given to awareness raising and educating of the civil society experts.

At the **EU level**:

Support could be provided by simplicity and timeliness of the **instructional materials** to implement the Charter. In practice, the guidelines, legislation and recommendations for evaluation arrive when the national system for new financing period has been developed. It would serve better if the guidelines were available in the beginning of the process as later it is more difficult to modify the already created system according to the recommendations.

- There is a need for an **advisory centre at the EU level**, as guidelines do not cover all issues (despite the prerequisite for granting support being compliance with the Charter, compliance is not described in practice, which in turn leads to the dissatisfaction of the monitoring committee).
- Better development of cooperation between the Member States to share information with each other.
- Similarly to the indicators for performance measurement, there could also be a common **indicator for the use of horizontal principles** and a network for monitoring the indicator.