



PERMANENT MISSION OF ESTONIA  
GENEVA

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Distinguished Special Rapporteurs,

I have the honour to respond on behalf of the Minister for Foreign Affairs of Estonia, Mrs Marina Kaljurand to your letter of 27 May 2016 concerning the allegations of stigmatisation of Ms Alisa Blintsova.

In your communication of 27 May 2016 you bring to the Government's attention certain information that you have received concerning the alleged stigmatization of Ms Alisa Blintsova. You express concern regarding her depiction in the 2015 annual review of the Estonian Internal Security Service (hereinafter *the EISS*) and ask the Government to clarify some aspects concerning this matter. In the following the Government provide information on the EISS, its duty to ensure national security and constitutional order and its means of prevention, followed by a short review of the general measures taken to ensure that human rights defenders in Estonia can act in a free and safe environment.

The primary objective of the activity of the Estonian security authorities under the Estonian Security Authorities Act is to ensure national security by the continuance of constitutional order through the application of non-military means of prevention. One of the primary duties of the EISS is, hence, to ensure the preservation of the Estonian state and its constitutional order. Estonian constitutional order is based on democracy, the rule of law and the protection of human rights. According to the Constitution of Estonia the rights, freedoms and duties of all persons and everyone, as set out in the Constitution, apply equally to all Estonian



residents. Generally recognized principles and rules of international law are an inseparable part of the Estonian legal system.

Gathering of information is one among the means of the prevention of constitutional order. In addition, it is important to inform the public about the threats and possible means of undermining the constitutional order. It raises the public awareness and at the same time gives assurance to the public that the security authorities are performing their duties vested in them by the law. Keeping that in mind, the EISS publishes annual reviews to bring to the public's attention the threats that may occur and what people may encounter even without their knowledge. The EISS has the right to gather personal data and if they deem it necessary, publish it for the preventive purposes.

Ms Alisa Blintsova's name occurs twice in the 2015 annual review of the EISS, at pages 8 and 11.<sup>1</sup> Both times her name is mentioned in the chapter entitled "Defence of the constitutional order" as an example of the method and manner how a foreign country carries out its influence operations in Estonia. The aim of the EISS annual reports is to inform Estonian public about the work of the EISS, including about the potential threats that the security authority sees to Estonian constitutional order. One of the threats to Estonian constitutional order as identified by the EISS, and thoroughly addressed in its 2015 annual review,<sup>2</sup> is foreign state's influence operations conducted through government controlled media channels. The collection and processing of relevant information has given ground to conclude that the foreign state has used the European migration crisis with the aim to instigate ethnic tensions in Estonia as well as to provoke confrontation between the members of the EU and NATO by distributing false or incorrect information.

The Government acknowledge that the publication of one's name in the EISS annual review may interfere with one's private life. Therefore, before any publication, the potential negative effects the publication has on a person's freedoms and rights are taken under careful consideration. In order to fulfil its duties, in justified cases a publication of a person's name by the EISS in connection with threats to national security and constitutional order is, however, necessary and proportionate.

The Government emphasise, that the annual report's aim is to inform public about potential threats to the national security and it can no way be seen as an instrument to convict or

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<sup>1</sup> Available online at <https://www.kapo.ee/sites/default/.../Annual%20Review%202015.pdf>

<sup>2</sup> See Ch 1 of the 2015 annual review for further information.



stigmatise anyone. Moreover, article 15 of the Constitution of Estonia guarantees the right of every person whose rights and freedoms have been violated to have recourse to the court. Several people whose name has been published in one of the EISS annual reports have effectively used that right.<sup>3</sup>

The Government fully comply with their international obligations to protect human rights and human rights defenders. The Government acknowledge the work that is done by the human rights defenders and support both on EU level and domestically their contribution in defending human rights. The Government inform that the following measures are in place to ensure that human rights defenders in Estonia are able to carry out their legitimate work in a safe and enabling environment.

Human rights defenders' activities are protected in accordance with the constitutional rights to form non-profit associations (article 48 of the Constitution) and to assemble peacefully and to conduct meetings without prior permission (article 47 of the Constitution, and the Non-profit Associations Act and Public Meetings Act). Only a court may terminate or suspend the activities of, or fine, an organization, union or political party, for a violation of the law. The establishment of non-profit entities is a constitutional right and dissolution of such entities is possible only in court proceedings. There are no requirements or limitations concerning the purpose of the entities if the purpose is lawful. Interference with violent dispersion of lawfully organized public meeting is punishable by a pecuniary punishment or up to one year of imprisonment (§ 158 of the Penal Code).

The basic right to freedom of expression and opinion is guaranteed by article 45 of the Constitution, providing for everyone “the right to freely disseminate ideas, opinions, beliefs and other information by word, print, picture or other means. This right may be restricted by law to protect public order, morals, and the rights and freedoms, health, honor and good name of others. This right may also be restricted by law for state and local government public servants, to protect a state or business secret or information received in confidence, which has become known to them by reason of their office, and the family and private life of others, as well as in the interests of justice. There is no censorship.” Incitement of hatred and discrimination is punishable under the Penal Code (§ 151).

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<sup>3</sup> The relevant cases include: Judgment of the Tallinn Court of Appeal of 10.06.2011, No 3-10-2285 (available at: <https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=109816605>); Judgment of the Tallinn Court of Appeal of 11.04.2014, No 3-12-960 (available at: <https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=121341028>); Judgment of the Tallinn Court of Appeal of 16.07.2015, No 3-12-983 (available at: <https://www.riigiteataja.ee/kohtulahendid/detailid.html?id=160873498> ).



The Constitution guarantees everyone the right to freely obtain information disseminated for public use. All state agencies, local governments, and their officials have a duty to provide information about their activities, pursuant to procedure provided by law, to an Estonian citizen at his or her request, except information the disclosure of which is prohibited by law, and information intended exclusively for internal use. In addition, the right to address state agencies, local governments, and their officials with memoranda and petitions is guaranteed (article 46 of the Constitution). The Public Information Act, § 4, provides that in order to ensure democracy, to enable public interest to be met and to enable all persons to exercise their rights and freedoms and perform their obligations, holders of information are required to ensure access to the information in their possession under the conditions and pursuant to the procedure provided by law. Access to information shall be ensured for every person in the quickest and easiest manner possible. Upon granting access to information, the inviolability of the private life of persons shall be ensured. Every person has the right to contest a restriction on access to information if such restriction violates the rights or freedoms of the person. To deny access to information which should be public by law, is punishable (§ 54<sup>1</sup>). On the other hand, divulging state secret or disclosure of information obtained in the course of professional activities and relating to the health, private life or commercial activities of another person by a person who is required by law to maintain the confidentiality of such information, or illegal disclosure of sensitive personal data is punishable by a pecuniary punishment or up to 3 years' imprisonment (§§ 157-157<sup>1</sup> of the Penal Code).

Defamation and slander are prohibited under private law. Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, color, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention; in aggravating circumstances by a pecuniary punishment or up to 3 years' imprisonment (§ 151 of the Penal Code). This provision implements the right to equality guaranteed by the article 12 of the Constitution, providing that 'everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, color, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or discrimination between social strata shall, by law, also be prohibited and punishable.



According to article 15 of the Constitution everyone whose rights and freedoms have been violated has the right of recourse to the courts. Everyone is entitled to petition the court that hears his or her case to declare unconstitutional any law, other legislative instrument, administrative decision or measure which is relevant in the case. The courts observe the Constitution and declare unconstitutional any law, other legislative instrument, administrative decision or measure which violates any rights or freedoms provided in the Constitution or which otherwise contravenes the Constitution.

The right to defense and appeal are guaranteed. The court is independent and in general the trials are public. According to §9(3) of the Code of Criminal Procedure, investigative bodies, Prosecutors' Offices and courts shall treat the participants in a proceeding without defamation or degradation of their dignity. No one shall be subjected to torture or other cruel or inhuman treatment. Due to the general length of procedures, guarantees have been established to avoid unreasonable prolongation of procedures and to compensate the damages of persons who have been accused with no subsequent conviction.

In conclusion, please allow me to assure you that I am at your disposal to meet and provide further information and clarification.

A handwritten signature in blue ink, appearing to read 'Andre Pung', with a large, sweeping flourish extending to the right.

Andre Pung

Ambassador