

EMU CHOICES

THE CHOICE FOR EUROPE SINCE MAASTRICHT
SALZBURG CENTRE OF EUROPEAN UNION STUDIES

Fact sheet on legal foundations for fiscal, economic, and monetary integration

ESTONIA

by Andres Tupits



Introduction

This country fact sheet provides concise information on the main characteristics of the national constitutional systems, including the system and role of national jurisprudence, parliaments and governments. Further, it briefs on the constitutional foundations and limits in the field of Economic and Monetary Union. It outlines on the existence of specific constitutional provisions on EMU membership, accession, treaty amendments, or limits to the (further) transfer of powers through Treaty amendments.

Among others, the overview informs about the principal actors in the field of fiscal and economic policies, the relevant findings of the judicial and parliamentary branches on EMU related actions, implementation measures of supranational and international rules, and respective constitutional amendments.

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ESTONIA (Andres Tupits)

1) Main characteristics of the national constitutional system

- Estonia was proclaimed as independent republic on 24 February 1918, re-claimed its independence on 20 August 1991 following the collapse of the Soviet Union and entered into the European Union on 1 May 2004.
- Legislative power lies with the parliament (*Riigikogu*). The parliament consists of 101 members, elected by Estonian citizens for a term of four years.
- Executive power lies with the Government of the Republic, which implements the country's domestic and foreign policy and organizes implementation of legislation.
- The head of state is the President. The President plays a primarily representative role.
- The Estonian legal system belongs to the continental European legal tradition, the Roman-Germanic family, and follows the classic division into private, public, and criminal law.
- Estonia's court system consists of three instances:
 - county and administrative courts are the first instance courts;
 - circuit courts are the courts of the second instance, located in Tallinn and Tartu, and
 - the Supreme Court, located in Tartu, is the third instance.
- The formation of emergency courts is prohibited by the Constitution.
- County courts and administrative courts adjudicate matters in the first instance, such as civil, criminal and misdemeanour matters or administrative matters.
- Appeals against decisions of courts of first instance shall be heard by courts of second instance.
- Courts of appeal are courts of second instance (sometimes also called circuit courts or district courts).

2) Constitutional foundations of EMU membership

- The current Estonian Constitution was adopted by a referendum held on 28 June 1992 (the First Act). The Constitution of the Republic of Estonia Implementation Act (the Second Act) was also passed in the referendum.
- The First Act has been amended four times:
 - on 25 February 2003, when the term of office of local governments was extended from three years to four;

- on 12 April 2007, where reference to the protection of the Estonian language was added to the preamble;
 - on 13 April 2011, where the military command was reformed;
 - on 6 May 2015, where the voting age at local municipality elections was lowered from 18 to 16 years.
- The Constitution of the Republic of Estonia Amendment Act (the Third Act) was passed by a referendum on 14 September 2003. The Third Act is remarkable in two respects: first, it is at the same level in the legislative hierarchy as the First Act; and second, no provisions of any previous Acts were amended with the passage of the Third Act.
 - Article 2 of the Third Act sets forth that: “As of Estonia’s accession to the European Union, the Constitution of the Republic of Estonia (i.e. the First Act) applies taking account of the rights and obligations arising from the Accession Treaty.”
 - Article 111 of the First Act sets forth that Eesti Pank has the sole right to issue Estonian currency and that Eesti Pank shall regulate currency circulation and uphold the stability of the national currency. However, in the light of Article 2 of the Third Act, it is possible to suggest so many potential interpretations that the principle of legal certainty begins to be undermined.
 - On 11 May 2006 the Estonian Supreme Court with its opinion 3-4-1-3-06:
 - (1) declared Article 111 of the Constitution to be inapplicable and found the Draft Act Amending the Estonian NCB Statute, which made preparatory arrangements for the eventual adoption of the euro, compatible with the Constitution.
 - (2) addressed the position of the Third Act in the context of supremacy of Union law: it stated that the text of the First Act should be read together with the Third Act and that those parts of the Constitution that are incompatible with Union law shall not be applied.

3) Constitutional limits for EMU membership

- In early 2012, the Chancellor of Justice referred to the Estonian Supreme Court to declare Article 4 (4) of the Treaty Establishing the European Stability Mechanism, the emergency voting procedure, to be in conflict with the Constitution. The Chancellor of Justice focused on the issue that substantial budgetary decisions could be made in the future under the emergency voting procedure without the involvement of the Estonian parliament. The Estonian Supreme Court dismissed the application in its decision 3-4-1-6-12 on 12 July 2012 with 10 judges out of 19 (full court) in favour and a number of judges submitting dissenting opinions.

4) Crisis Management Measures

- Estonia's banking sector was not harmed by the financial crisis of 2008-2009; neither was it affected by the euro area bond crisis as there are no government bonds issued by the Republic of Estonia.
- The duties arising from the Treaty on Stability, Co-ordination, and Governance in the European Union, including Articles 3(1), 4, 5 and 6 of it as well as the Council Directive 2011/85/EU have been taken into account by the new State Budget Act ('Riigieelarve seadus' in Estonian). As the balanced budget rule was applied in practice also before, the draft new State Budget Act amends the preparatory process of annual budgets and specifies the roles and responsibilities of different institutions in this regard.

5) Constitutional law scrutiny of EMU reform scenarios

- In the Decision 3-4-1-6-12, the Estonian Supreme Court held, among others, that if the European Union Treaties were to be amended or a new founding treaty is entered into and if it brings about more extensive delegation of Estonia's competences to the European Union and more extensive interference of the Constitution, the consent of the people of Estonia must be requested.

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