

September 2014

## ESTONIA

### 1. What is the title, rank and position of the Legal Adviser?

The functions of the Legal Adviser in Estonia are fulfilled by the Undersecretary for Legal and Consular Affairs of the Ministry of Foreign Affairs (MFA). The Undersecretary supervises two departments in the MFA – the Legal Department and the Consular Department. He or she also substitutes for the Secretary General of the MFA, if necessary.

### 2. What are the principal functions of the OLA?

The functions of the Office of the Legal Adviser (OLA) are fulfilled by the Legal Department and its main task is to provide legal advice to the officials and departments of the Ministry. The Legal Adviser is also responsible for consular affairs and gives guidance on issues of consular law. The range of subjects covered by the OLA is wide and includes public and private international law, law of treaties, human rights law, European Union law as well as domestic law. The Legal Department also advises other Estonian ministries and institutions on international, European and foreign law issues and represents Estonia on international negotiations, conferences etc. The lawyers of the OLA participate also in the legal drafting of primary and secondary legislation in case the subject of the legal act falls within the competence of the MFA. Estonian agents before the European Court of Human Rights and European Court of Justice are also members of the OLA.

### 3. Please give a brief description of staff employed by the OLA, including overseas staff. What is the distribution of posts between men and women within the OLA and what category of staff do they respectively belong to?

There are currently 16 lawyers in the OLA, 10 of them are career diplomats. There are also 3 technical experts who are responsible for administrative issues and databases and 1 linguistic expert. All lawyers have a law degree and many of them also an advanced degree in international or European Law. In addition to the staff of OLA, there are number of lawyers serving as diplomats posted in various Estonian foreign missions.

Out of the 20 employees of OLA, 17 are women and 3 are men.

### 4. Are there any specific recruitment and promotion policies, provisions and/or quotas to ensure non-discrimination and equal opportunities, e.g. for the underrepresented sex, for persons with disabilities or for persons belonging to ethnic or religious minorities or of immigrant origin?

There are no specific policies/provision to facilitate the diversity within the OLA. The staff of OLA is recruited on the same principles as other diplomats to the MFA, the only precondition is the degree in law. The diversity within the staff is mainly guaranteed through the system of periodic rotation of diplomats. The recruitment to the MFA falls within the competence of the Personnel Department and they consult with the particular department to find the best solutions and suitable candidates according to the specific needs of the said department. MFA has always encouraged the recruitment of persons with different ethnical backgrounds, and is taking account the necessity of gender balance, as much as possible.

**5. Is OLA staff trained on gender equality issues and are these issues mainstreamed into the OLA's work?**

Since 1995 there is a Gender Equality and Equal Treatment Commissioner in Estonia. The Commissioner is an independent and impartial expert who monitors compliance with the requirements of the Gender Equality Act and Equal Treatment Act. One of the functions of the Commissioner is to advise and inform the Government of the Republic, government agencies and local government agencies on issues relating to the implementation of Gender Equality Act and Equal Treatment Act. The Commissioner provides regular trainings on gender equality regulations as well as on equal treatment issues to all ministries and institutions in Estonia. The staff of OLA also regularly participates in the trainings on gender equality and equal treatment issues.

**6. Briefly describe the organisation and structure of the OLA.**

The Legal Department is headed by the Director General of the Department. The Department has two divisions – the division of international law and the division of European law, both headed by the Directors of Divisions. There is a degree of specialization among the lawyers in both divisions – international law, human rights law, diplomatic law, as well as jurisprudence of the European Court of Human Rights and European Court of Justice. The Agents of the Estonian Government to the European Court and European Court of Human Rights are also serving in the OLA.

**7. What is the OLA's place within the Ministry of Foreign Affairs?**

Legal Department is a unit within the MFA, headed by the Director General and supervised by the Undersecretary for Legal and Consular Affairs who reports directly to the Minister and the Secretary General. As was described above, most of the lawyers of the Legal Department are members of the diplomatic corps and rotate regularly to other departments of the MFA as well as to the Estonian foreign missions abroad.

**8. What are the main contacts of the OLA within Government?**

The Legal Adviser provides legal advice on questions of international public law, European Union law and consular law to the MFA and other Estonian ministries and institutions. As described under question 2, OLA is responsible for drafting legislation, inter alia making sure that the drafts of the legal acts are in accordance with Estonia's international obligations. The lawyers of the OLA are members of inter-governmental commissions and delegations for the negotiations concerning international treaties and regularly provide advice on questions concerning international law and European Union law. MFA also submits all Estonian treaties to the Government for approval. In preparing for the proceedings before international courts, the OLA lawyers work closely with experts from other ministries.

**9. Please describe the relations of the OLA with lawyers in private practice, academics and legal institutions.**

Depending on the subject matter, the MFA regularly establishes contacts with scholars or private law firms. Sometimes the MFA is represented in domestic or foreign litigations against the Ministry by private attorneys. The OLA has also close contacts with the academic institutions and is organizing seminars with them or participating in conferences organized by universities. Lawyers of the OLA are widely encouraged to contribute to international and domestic legal publications.

**10. Please provide a brief bibliography on the OLA, if available.**

n/a