

PLATFORM TO PROMOTE THE PROTECTION OF JOURNALISM AND SAFETY OF JOURNALISTS

Reply by the Government of Estonia to the platform alert concerning the Estonian Minister of Justice

The Republic of Estonia values independent journalism highly as a pillar of democracy. This is evidenced by the Press Freedom Index, where Estonia has steadily been in the highest or second highest group for years, including ranking 11th in 2019 and 14th out of 180 countries this year.

With regard to the actions of the journalists of *Õhtuleht* in revealing misuse of public assets by former Minister of Education and Research Mailis Reps, allow us to emphasise that Minister of Justice Raivo Aeg explicitly recognised the role of journalists in exposing incidents of corruption and, in his initial statements about the newspaper article in question, condemned Ms Reps' behaviour.

With regard to the question raised by Minister Aeg whether the journalists might have harmed the interests of the minor children of former Minister Reps by monitoring their activities, collecting information about their whereabouts, taking photographs and publishing these photos in the newspaper and might have thereby failed to observe the requirements of responsible journalism while investigating potential corruption, Article 3 of the United Nations Convention on the Rights of the Child states that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, or legislative bodies, the best interests of the child shall be a primary consideration.

Estonian journalists have adopted a Code of Ethics, according to which children may be photographed only with the consent of a parent. Exceptions may be made to protect the interests of a child or if a child is already subject to public attention. In the case in question, an exception was not justified. Blurring the faces of the children did not change this fact because they could be identified based on other information provided. Tarmu Tammerk, media ombudsman at Estonian Public Broadcasting, Ragne Kõuts-Klemm, a renowned media expert and member of the Press Council, an independent extrajudicial dispute resolution body established by the Association of Estonian Media Enterprises, as well as Varje Ojala, Head of the Estonian Union for Child Welfare, all support the position that the publication of photos of Mailis Reps' children by *Õhtuleht* was unethical.

In order to seek clarification of how the interests of third persons, above all children, must, in practice, be taken into consideration in the context of unauthorised surveillance and responsible journalism, the Minister of Justice texted the Prosecutor General of Estonia on his mobile phone. This was and has been the only communication between the Minister of Justice and the Prosecutor's Office concerning this case. The Minister of Justice did not ask the Prosecutor's Office to consider opening an investigation nor instruct it to do so. The Prosecutor's Office is an independent government agency within the area of government of the Ministry of Justice and is an important partner for the Ministry in legislative drafting and the development of criminal policy. It is therefore not uncommon to ask for feedback regarding the practical interpretation of the Penal Code. In the interim, the Prosecutor's Office has independently processed this case and is of the opinion that the actions of the journalists of *Õhtuleht* in gathering information about use of the official car of the Ministry of Education and Research did not comprise the necessary elements of the offence of unauthorised surveillance and, therefore, criminal proceedings have not been initiated against any person.

We confirm that the Prosecutor's Office of Estonia is independent, and the Minister of Justice cannot and does not order the Prosecutor's Office to initiate, conduct or terminate proceedings. It was not the intent of the Minister of Justice to intimidate the journalists, but rather to obtain an independent, objective, and competent legal assessment of the situation.

In light of these circumstances, Estonia maintains that there has been no harassment or intimidation of journalists by the Minister of Justice.