

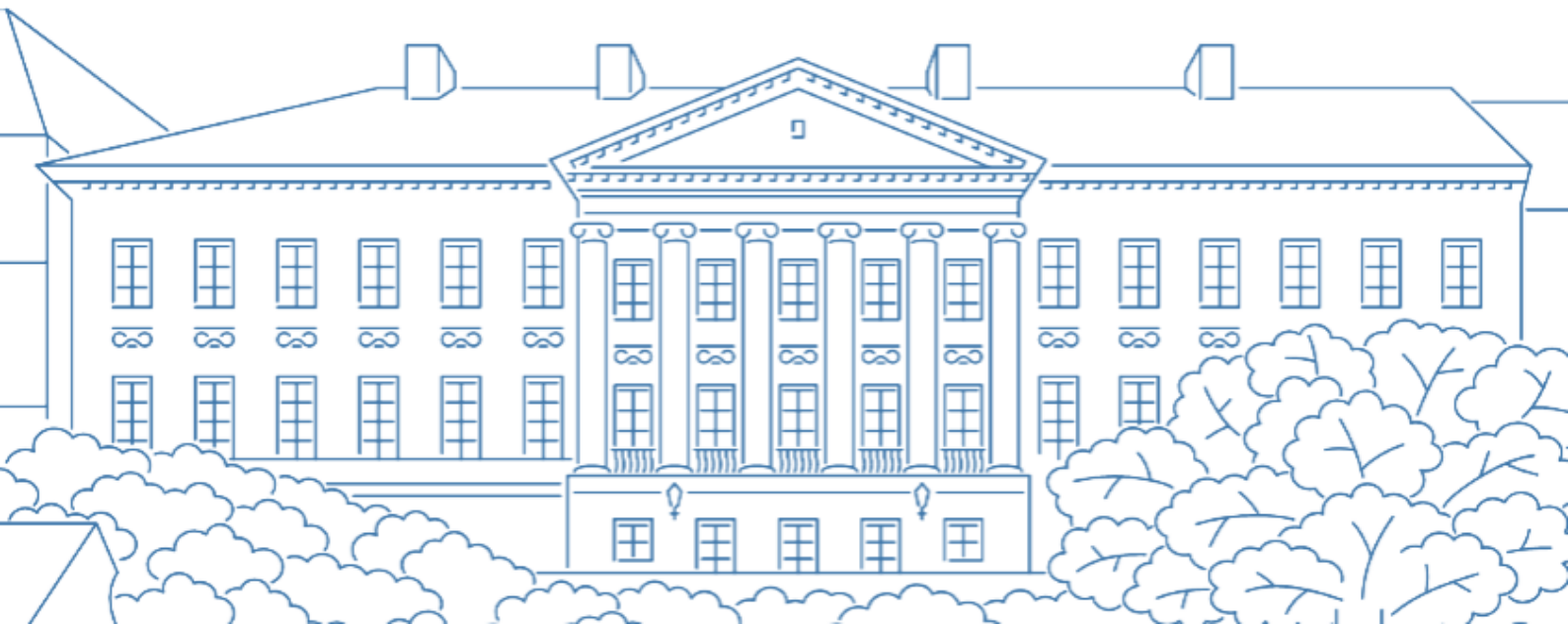


Õiguskantsler

# **2020/2021 OVERVIEW OF THE CHANCELLOR OF JUSTICE OF ESTONIA ACTIVITIES**

## **THE RIGHTS OF THE CHILD**

Tallinn 2022



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## Foreword

Estonia ratified the UN Convention on the Rights of the Child in 1991. Under Article 4 of the Convention, States Parties must undertake all appropriate legislative, administrative, and other measures to ensure for children the rights recognised in the Convention.

Since 2011, in Estonia, the function of the independent ombudsman for children is performed by the Chancellor of Justice who ensures that all decisions concerning children respect the rights of children and proceed from the best interests of the child.

The Chancellor often receives requests for assistance from parents who have been unable to agree with each other on matters of child custody, maintenance or access. The Chancellor does not resolve disputes between parents; however, the Chancellor's advisers do help to clarify matters.

The law presumes agreement between parents on matters concerning their child. However, no law or state coercion can mend human relationships. Yet it is in a child's interests that separated parents should try to find consensus on matters related to their child's living arrangements, maintenance and their contact with the child, and should make a joint effort for the sake of the child's well-being. In the absence of agreement, a dispute is resolved by the court, which must take account of the particular circumstances in its judgment and reach a solution that is in the best interests of the child. Recourse to the court should be a measure of last resort.

Reaching agreement between parents is supported by the national family mediation system, which became operational on 1 September 2022. The Chancellor had for several years been drawing attention to the necessity for such a system. Parents are offered a possibility to reach agreement on a child's living arrangements with the help of an impartial specialist both extra-judicially as well as at the initial stage of court proceedings.

Similarly to previous reporting periods, the Chancellor received a considerable number of letters about problems related to activities of kindergartens and schools. Several questions recur from year to year: for instance, people ask how quickly should a family get a kindergarten place, and parents are also interested in the conditions of the childcare service offered in substitution for a kindergarten place. The Chancellor also checked regulations concerning admission to a kindergarten and found several shortcomings.

The Chancellor had to explain repeatedly that children with special needs enjoy the same right to attend kindergarten as other children. A suitable environment for their development must be created and necessary support provided, be it in the form of a support person, support services or other assistance. The Chancellor asked Tallinn city to revise the organisation of the support person service so that children in need of assistance actually do receive assistance. Hopefully, other local authorities also find these recommendations useful.

Very many petitions concerned the organisation of study under conditions of combating the spread of the coronavirus. For example, people asked about the lawfulness of introducing distance learning in schools, rules on participation in study and restrictions on organising school events. Numerous questions also concerned rapid testing of children and vaccination against Covid-19. Parents wanted to know who must provide consent for testing a child, what are the consequences of refusing testing, can a child themselves consent to their own vaccination, in what cases is consent provided by a parent, and what if parents' opinions on this diverge, and whether a school may urge children to be vaccinated.

In one way or another, several petitions concerned the relationship between a child and the state, for instance a child's data in national databases. These issues are not purely legal or technical but affect the rights of the child protected under the Convention, including a child's rights to social security and the right to have the child registered and given a name immediately after birth.

The Chancellor was asked to explain how to enter a child's data in the population register if the child was born at home and has no medical birth certificate issued by a maternity hospital or a midwife with training in giving birth at home. A temporary solution to the problem is offered by case-law (e.g. Tallinn Administrative Court judgment in case No [3-21-2840](#)), but a systematic review is also needed of legislative provisions concerning registration of a child's birth.

As a result of the Chancellor's intervention, agencies also found a solution to two situations where a person taking care of the child was not the child's legal representative according to the population register, so that they were deprived of family benefits.

A happy development is that at the Chancellor's initiative the practice of searching children coming for a visit in prison is about to change. The Chancellor has repeatedly explained to prisons that children may not be forced to undergo a strip search. The court agreed with the Chancellor and

considered such a measure to be unlawful (Tallinn Court of Appeal judgment in case No [3-21161](#)). Unfortunately, changing the practice may still take time.

Under the leadership of the Chancellor's Office, preparations began for drawing up a children's report for the UN Committee on the Rights of the Child. With this report, in 2023 children and young people will submit an overview to the Committee about the situation of the rights of the child in Estonia. The children's report will be drawn up by ambassadors for the rights of the child of the Estonian Union for Child Welfare, assisted by advisers from the Children's and Youth Rights Department of the Chancellor's Office and staff of the Union for Child Welfare.

## Parental care

Often the Chancellor is contacted by separated parents who are unable to reach agreement on matters related to contact with the child. To the majority of them, the Chancellor has recommended the national family mediation service. Parents who have failed to reach agreement are offered an explanation about the possibilities for recourse to the court.

Some parents have complained that the other parent's behaviour has worsened their relationship with the child and, for this reason, they have been unable to meet with the child for a long time. A child's alienation from a parent is a problem to which increasing attention is being paid and solutions sought both in Estonia and globally.

This spring the conference "[Et lapsele jääksid vanemad](#)" (Letting the child keep the parents) took place in the Chancellor's Office with participation of the globally recognised child rights expert Edward Kruk who also met with the Chancellor's advisers. At the same conference, the Chancellor spoke about concerns that people raise when contacting her.

### **Refusal to be in contact with a sick child**

The Chancellor has also been asked whether a parent living separately from the child is entitled to refuse a meeting with the child set under the access arrangements if the child has been in close contact with a Covid-19 infected person.

The law does not prescribe any specific approach for contact with a child but in implementing access arrangements parents must take into consideration recommendations given to people in Estonia and applicable restrictions. If under applicable restrictions a child is prohibited from leaving their home, an attempt should be made to find other options for contact, such as by telephone or via a video call. Once the self-isolation obligation ends, an attempt should be made to return to the child's previous living arrangements.

### **Access to data in the e-school**

The Chancellor was contacted by a mother who was annoyed that the children's father had access to the e-school environment. The justification given by the mother was that in educational issues she had the sole right of custody.



The Chancellor found that the right granted by the court to decide issues relating to the child's education does not mean that the other parent may be denied information about how their child is doing at school. A parent with a limited right of custody needs information about the child's life and situation, among other things, in order to enable meaningful contact with the child.

A parent's rights are restricted only to the extent and with regard to issues determined by the court. If a court order is not unequivocally clear, its content can be explained by the court. In the instant case, the rural municipality government and the school did discuss the situation with the judge before giving the father access to the child's data in e-school.

### **A child moving abroad**

The Chancellor was asked whether one of the parents may move abroad with the child.

The Chancellor's advisers explained that parents have equal rights and duties in respect of their children. A child is entitled to personal contact with both parents, and the parents have the duty and right to be in personal contact with the child. Neither of the parents enjoying a joint right of custody can decide on a permanent move abroad with the child. Determining a child's habitual residence is part of a parent's right of physical custody and parents enjoying the joint right of custody must decide on it together.

If parents fail to reach consensus on determining a child's residence, both parents may ask the court to decide. However, if a parent still takes a child to live abroad without the other parent's consent then the other parent may, under the [Hague Convention](#) on Civil Aspects of International Child Abduction, request the child's return by reference to the child's illegal removal.

### **Alternative care of a child staying abroad**

The Chancellor was contacted by a person wishing to bring to live with them in Estonia relatives living in a substitute home abroad but failed to get authorisation for this from the foreign authorities.

The Chancellor's advisers explained that in the event of moving to live abroad everyone must take into account the fact that all that country's legislation will apply to them and disputes will be resolved in line with the procedures applicable in that country. A person's country of origin cannot intervene

in the activities of foreign officials or administration of justice there. Estonian officials can only provide assistance and explanations.

In Estonia, international child protection cases are dealt with by the child protection department of the Social Insurance Board, which can provide advice on how to act in the event of problems with cross-border custody and guardianship and where to obtain legal assistance in such cases.

## **Infants in a safe house**

A child's natural environment for growth and development is their family. In order to enable a child to grow up in a family, the state must support parents in raising children. Unfortunately, even with state support not all parents are able to ensure a safe environment or parental care for their children. In those cases, the state must ensure suitable alternative care for a child outside their family.

Care for a child outside their birth family is called alternative care. At first, a child separated from their birth family may end up in a safe house. The Chancellor has [found](#) that a child should stay in a safe house as briefly as possible and infants should not be placed in a safe house at all.

Unfortunately, it still happens that children, including small children, have to live in a safe house for a long time. According to [information](#) for 2021 from the Ministry of Social Affairs, 233 children stayed in a safe house for over a month and 60 of them were under seven years old. Four infants lived in a safe house for longer than six months.

The Chancellor received information about a child who had been brought to a safe house at the age of one month and lived there as long as one year and seven months. The Chancellor passed on the information to the Social Insurance Board, which found several shortcomings in the activities of Tallinn Lasnamäe District Administration. The Social Insurance Board also reminded the district administration that a safe house can only be a child's temporary place of stay.

Hopefully, in the future similar problems can be prevented by the new organisation of the child safe house service, which the Social Insurance Board is currently preparing.

## **Children of prisoners**

In recent years, the Chancellor has paid much attention to the possibility for convicted and remand prisoners to be in contact with their family and next of kin. In a summary of inspection visits to Viru

and Tallinn prisons, the Chancellor emphasised that convicted and remand prisoners should also be able to communicate with their family via a video link. The Ministry of Justice drew up the relevant [Draft Act](#).

The Chancellor asked the Ministry of Justice to also review those provisions which may impose unjustified obstacles to contact with family and next of kin. For instance, serious consideration should be given to whether it is justified to charge a fee for using rooms for long-term visits.

The Chancellor [reminded](#) Tartu Prison that prison staff must be able to establish good contact with prisoners' next of kin, in particular children, and that children's needs and interests should be taken into account when setting conditions for visits. During short-term visits, family members should not be separated from a prisoner by a glass partition, and small children should be able to take along a favourite toy to a visit.

For a long time, the Chancellor has been concerned about how a search of family members arriving for a visit is arranged. She has [repeatedly](#) explained to prisons that children coming for a visit may not be forced to undergo a strip search. Tallinn Court of Appeal agreed with the Chancellor by holding (in case No [3-21-161](#)) that this procedure was unlawful.

Unfortunately, Tallinn Prison has continued its unlawful activity even after the court judgment entered into effect.

# Kindergarten and school

## Preschool education

Several parents have contacted the Chancellor with the concern that a local authority has not ensured a kindergarten place although under the law this is the duty of a local authority. Under the Preschool Childcare Institutions Act, a rural municipality or city must provide a kindergarten place to every child at least one-and-a-half years old. A rural municipality or city has complied with its duty if it gives a child a kindergarten place within a reasonable time. In line with the case-law, in general a reasonable time is two months from the moment when the family applied for a kindergarten place.

Parents may not be placed in a forced situation where they have to find a place for their child in childcare because the local authority failed to offer them a kindergarten place. Under the law, a rural municipality or city may replace a kindergarten place for a child aged one-and-a-half to three years old with a place in childcare only when a parent agrees to it. If a local authority has failed to provide a kindergarten place on time and for this reason the family has incurred additional expenses (e.g. paid a higher childcare fee in comparison to the fee for the municipal kindergarten) then the local authority must compensate these expenses to the family.

The Chancellor explained the parents their rights and how to protect them in court.

Sometimes disputes arise from the fact that a family is offered a place at a kindergarten located too far from the child's home. The law does not definitely entitle a family to a place in a kindergarten of their choice, for example one located closest to their residence. However, a local authority must ensure a place in a kindergarten of its service district, i.e. a place should be offered in a kindergarten within the particular local authority's boundaries. Nevertheless, the local authority must bear in mind that the kindergarten service should be accessible to the family.

When resolving people's complaints, on two occasions the Chancellor also noticed problems in local authority legislation. In one case, the Chancellor [found](#) that Harku Rural Municipality Government regulation of 30 December 2015 on "The procedure for admission to and exclusion from preschool childcare institutions in Harku rural municipality" contravened the Constitution. The regulation enabled the rural municipality government, with parental consent, to replace a kindergarten place for a child aged one-and-a-half to three years old with a place in childcare if the municipality

government could not offer the family a place in a kindergarten. This deprived a parent of the statutory possibility to choose between a kindergarten and childcare. The Chancellor asked the rural municipality to inform her how the municipality intended to comply with the proposal. The rural municipality amended the regulation in line with the Chancellor's proposal.

In another case, the Chancellor [found](#) a conflict with the law in Haljala Rural Municipality regulation of 19 July 2018 on "The procedure for admission to and exclusion from preschool childcare institutions in Haljala rural municipality". The regulation contravened the law by imposing more extensive restrictions on obtaining a kindergarten place than laid down by law. Under the law, a child of kindergarten age is entitled to a place in a kindergarten if their parents so wish.

Ensuring kindergarten places to all children of kindergarten age within a reasonable time may indeed often be complicated but, in the interests of children and parents, a local authority must resolve the problem. After all, a rural municipality in general knows the number of children of kindergarten age. The Chancellor proposed to the rural municipality to bring the regulation into conformity with the law and the Constitution. The rural municipality amended the regulation in line with the Chancellor's proposal.

### **Going home alone from a kindergarten**

A parent asked the Chancellor whether a kindergarten may impose its own requirements when a parent has applied to the kindergarten to allow their child to go home independently on certain weekdays and be home alone for a few hours.

According to the parental right of custody, a parent decides on the child's living arrangements while also having to consider whether the solution is safe for the child and in the child's best interests. If a parent finds that their pre-school-aged child is sufficiently independent and the home is near the kindergarten in a street with low traffic, so that the child could go home from the kindergarten on their own, then allowing such an exceptional solution cannot be ruled out. However, this solution should certainly also be discussed with the kindergarten, which can advise the parent on these matters.

Although primary responsibility for a child lies with the parent, the kindergarten is also responsible for the child's life and health and, more broadly, for the child's well-being. Kindergarten staff must

intervene if they see that a parent's decision clearly contradicts the child's best interests. If the kindergarten believes that it is dangerous to allow the child to go home alone from the kindergarten then the kindergarten may not let the child go home alone.

Since it is not possible to exhaustively regulate all life situations in legislation, such issues must be resolved by taking account of specific circumstances and the child's maturity.

## **General education**

### **Closing a school building**

The Chancellor was asked whether Lääne-Harju Rural Municipality Government complied with the principle of good administration by discontinuing instruction in the Lehola school building of Laulasmaa School. In addition, the petitioner wanted to know whether children and their parents are entitled to have a say in the matter of changing the place of instruction, similarly to having the right to a say in the case of a school reorganisation. The Chancellor [found](#) that Lääne-Harju rural municipality did not err against the principle of good administration when preparing to discontinue instruction in the Lehola school building.

The Chancellor was also contacted by parents of pupils at Narva Soldino Upper Secondary School since they were dissatisfied with the plan for reorganising the school. The Chancellor [explained](#) to the parents that the draft education development plan drawn up by Narva City Government has been introduced to the public and everyone interested has been able to submit written proposals to it. By the time of replying to the petition, no decision had been adopted on the reorganisation of Narva Soldino Upper Secondary School. Accordingly, no parental or children's rights had been violated in this connection.

### **Organisation of school transport**

A local authority has the duty to organise a child's transport to and back from the school assigned to the child based on the child's residence. Transport must be safe and the child's age must be taken into account in organising it. The child must be able to reach the school on time while not being forced to hurry too much or spend excessive time on public transport. The child must also be able to get back home within a reasonable time after the school day.

When planning a child's school route, consideration should be given to how long they have to walk, whether the route to a bus stop or school is safe and whether the bus stop has a shelter offering cover from inclement weather.

Where necessary, a local authority must consider using individualised solutions. One option is to propose to a parent that the parent takes the child to school and back home on a contractual basis. That is, the parent enters into a contractual relationship with the rural municipality as a service provider and not as a parent. A local authority has failed to arrange transport if a parent themselves is forced to take the child to school (see the Chancellor's recommendations to [Antsla Rural Municipality Government](#) and [Kehtna Rural Municipality Government](#)).

### **The right to education of a child staying in the country without a legal basis**

The Chancellor was described a situation where the Police and Border Guard Board (PBGB) prohibited a child staying in Estonia without a legal basis from attending school and took the child back home after it had reached the school.

The Chancellor [found](#) that by doing so the PBGB had violated the law and the child's rights. The PBGB is not competent to assess whether a child is entitled to attend school.

Every school-aged child in Estonia is entitled to education. The Chancellor also explained to the child's mother issues related to both her own and the child's legal status.

### **Organisation of instruction at school**

#### **Distance learning**

The Chancellor was asked to assess whether transfer of all schools in Tallinn to distance learning was lawful.

The Chancellor [replied](#) that since the beginning of academic year 2020 she has repeatedly explained to parents, pupils as well as teachers on what legal grounds and who is entitled to apply distance learning in schools (see the annual report for 2020/2021). The problem was that in 2021 the legal framework was the same as in 2020 but the situation to which the rules applied had significantly changed as compared to autumn 2020.

Distance learning as a health protection measure is allowed in principle, but only if its use is justified by the actual (epidemiological) situation. Accordingly, a school can only proceed from its own specific situation when implementing distance learning, including information about the proportion of those vaccinated against Covid-19 and those recovered among pupils and teachers. Neither the school director nor the owner of the school is competent to assess the spread of the virus and the anticipated hospital burden arising from this.

The Chancellor was also asked to assess implementation of distance learning in schools in Pärnu city. The Chancellor [found](#) that, formally, Pärnu city as the owner of the schools did not adopt a legislative act requiring schools to apply distance learning. The decision on transfer to distance learning had to be made by each head of school themselves. Yet it should be kept in mind that a head of school may take an instruction given by the owner of the school as obligatory even though formally this is not so. The owner of the school and the Health Board informed heads of schools in a manner that may have inclined them to apply distance learning while at the same time not taking responsibility for this.

### **Rapid testing of pupils at school**

The Chancellor was often asked about rapid testing of pupils.

The Chancellor's advisers explained that no pupil can be obliged to do a rapid coronavirus test. If a child or parent does not consent to testing, the school must be notified about this. A parent's application for refusal may be written in free form. If for some reason a parent has not been able to notify the school about their refusal but the child does not wish to take a rapid test at school then it is sufficient that the child simply does not take the test. The child cannot be sent home because of refusing the test.

Pupils themselves carry out a rapid test by following the instructions. At home, assistance is provided by a parent and at school by a teacher, if necessary. Self-testing with a rapid test is not a healthcare service which should be provided by a healthcare professional. Therefore, the provisions of the Law of Obligations Act regulating provision of healthcare services are not applicable to self-testing.



No mandatory form has been laid down for obtaining consent for rapid testing. It is important that both children and parents have been informed in advance about testing, and both children and parents can always refuse testing.

### **Choice of curriculum**

The Chancellor was asked to assess whether the extra-school counselling team from the Rajaleidja network had acted lawfully and in the child's best interests when recommending a simplified curriculum for children. So far the Rajaleidja counselling team has recommended a simplified national curriculum only for children with a diagnosis of intellectual disability ascertained by a specialist doctor. In other cases, the recommendation has been to reduce learning results where necessary.

The Chancellor [found](#) that such practice is lawful and compatible with the child's best interests. Based on information available to the Chancellor, however, the Ministry of Education and Research intends to expand the possibilities for applying a simplified national curriculum.

### **Organisation of tests**

The Chancellor was asked about rules on organising tests at school.

It is clear that a pupils' study load must correspond to their age and capabilities, and testing may occur up to three times a week. Rules on organising tests have been established with a view to leaving pupils sufficient time for rest and hobbies. Pupils must also be enabled to acquire the necessary knowledge and skills in the best possible way. If the study load exceeds the admissible threshold, then a child may start lagging behind and it may also have a negative effect on their mental health.

The Chancellor [explained](#) that in planning tests teachers must also keep in mind the statutory requirements. A test is defined as a written paper to check study results at the end of a quarter of a school year or upon completion of a course. It is inadmissible to have pupils take more than three papers a week which in substance correspond to a test.

## **Home schooling at parental request**

Parents contacting the Chancellor expressed dissatisfaction with the organisation of their child's home schooling.

It is clear that home schooling is implemented in accordance with an individual curriculum, and responsibility for home schooling lies with the parent. An individual curriculum must set out the necessary learning outcomes and agreements as well as when and how the school checks them (see the [Chancellor's opinion](#)).

Implementing home schooling may not endanger a child's right to education and when considering a parent's application for home schooling the teachers' council must primarily assess whether the parent is capable of properly organising provision of education. If according to the school's assessment a pupil might not acquire the necessary knowledge and skills through home schooling, then no home schooling may be applied.

## **Basic school graduation conditions**

The Association of Estonian Language Teachers asked the Chancellor to assess a proposal by the Ministry of Education and Research under which graduating from the basic school would no longer depend on the results achieved at the final examination.

The Chancellor explained that a pupil's development and academic progress can be assessed on the basis of various assessment systems. Under the Basic Schools and Upper Secondary Schools Act, the conditions for graduating from the basic school are established by the Government in the national curriculum. The Riigikogu has not laid down a threshold for passing basic school final examinations. Laying down that threshold is an education policy choice (see the [Chancellor's opinion](#)).

For a child at the age of compulsory school attendance, acquiring basic education is both a right and duty. Good education is supported by good teachers, and schools must be able to use appropriate teaching aids and methods and the school environment must be safe for pupils. Under these conditions, it is possible to offer young people knowledge and skills with the help of which they can continue acquiring general or vocational education as well as otherwise participate in society in line with their age and capabilities.

## **Ensuring well-being**

### **The right of a parent to participate in school events**

Several parents expressed dissatisfaction that schools prohibited them from participating in events intended for parents, justifying this by the need to combat the spread of the coronavirus.

Measures for combating the epidemic spread of infectious diseases are established either by the Government of the Republic or the Health Board. Despite the spread of the coronavirus, in the academic year 2021/2022 the state did not consider it necessary to restrict parents' participation in events intended for them.

The Chancellor [reminded the schools](#) that measures for protecting the health of pupils and staff must be established by internal school rules, and when establishing the requirements the school must also bear in mind the rights of parents. A parent is not a third party in relation to a school since it is in the child's interests that the school and parent cooperate. Thus, a parent cannot be sidelined from school activities.

A parent is entitled to receive information and explanations about organisation of school life and the rights and duties of pupils. A parent is also entitled to attend a parents' meeting. Direct participation is not replaceable by subsequent publication of the minutes or an e-mail sent by a teacher. When organising the first year's school ceremony, the school must also keep in mind that allowing a parent to a festive event is mostly in the child's interests. When planning a school ceremony or a parents' meeting, the school may consider applying precautionary measures which are less restrictive on parents.

### **School bullying**

The Chancellor was informed that Russia's military aggression against Ukraine has caused such considerable tensions at school that they have even led to bullying based on children's ethnicity and views.

In her [reply](#), the Chancellor had to note that unfortunately this was not the only signal to this effect. She explained to the petitioner that, in cooperation with the Ministry of Education and Research, schools and teachers an attempt is being made to resolve such cases as swiftly as possible and

prevent them in the future. The Chancellor also explained in more detail how to behave in these situations and where to find help.

Another petition also concerned school bullying. A parent asked whether activities in the classroom may be recorded, for example, by a camera or other device with the aim of proving or preventing inappropriate conduct by a teacher. The Chancellor explained that even though parents have a relatively free hand in raising and guiding their child, parents in their activities must always respect the child's rights. Monitoring and recording a child's every word would violate their right to privacy and amount to misuse of power. Moreover, this may also amount to private surveillance of a teacher, which is prohibited and punishable.

In order to prevent situations endangering the safety of pupils and school staff, or to respond to such situations, surveillance devices may only be used by the school itself. At the same time, the school is not allowed to monitor lessons in the classroom and parents cannot request this from the school nor can they consent to this (see the guidelines from the Data Protection Inspectorate on the use of cameras, paras 11 and 13).

## Children and health

Article 24 of the [UN Convention on the Rights of the Child](#) lays down the right of the child to health. This means not only that a child is entitled to medical treatment and healthcare services but also the child's right to grow in an environment conducive to their development in the best possible way. Thus, the right to health includes a child's physical, emotional and social well-being.

The state must ensure that children's living environment is healthy and safe, so as to be able to avoid illness, injuries and death. At the same time, neither the state, doctors or anyone else can ensure good health to someone who themselves fails to take care of their health. Both children and adults must look after their health.

The Convention on the Rights of the Child links the child's rights to their capacity to reason. The older a child and the better their capacity to reason, the more right they have to take independent decisions and direct their life. Naturally, a child cannot be required to take full responsibility for their health. The primary responsibility for ensuring a child's rights and well-being lies with the parent. Therefore, it is important that a parent supports the child in making responsible and conscious choices. The law requires a parent or an adult raising the child to discuss with the child issues concerning their care and education while taking account of the child's age and maturity, and explain to the child how they can look after their health so as to reduce and prevent risks.

If a child's behaviour harms their health, they are deemed to be a child in need or in danger and adults have the duty to intervene to help the child. In extreme cases where a child's behaviour endangers their own health, and this danger cannot be eliminated by any other measure, the child can be taken to a closed childcare institution.

### **Consent for a child's vaccination**

During the reporting year, the Chancellor was asked on several occasions whether parental consent is required to vaccinate a child at school. People also asked whether schools may exert pressure on children to consent to be vaccinated against Covid-19.

The Chancellor [explained](#) that the same rules apply to vaccination against Covid-19 as to other vaccinations. Vaccination is voluntary both for adults and children.

A patient may be examined and healthcare procedures administered to them (including vaccination) only with their consent. This means that a patient must be informed about the purpose of medical procedures as well as possible risks and consequences. Then the patient themselves can decide whether to provide consent or refuse.

Parental consent must be sought to vaccinate a minor patient, but the child themselves must also approve the vaccination (see paras 17 and 18 of the [guidelines on child patients](#)). However, a doctor who deems that a young person has sufficient capacity to reason must proceed from the young person's own decision. In that case, a parent may not decide on the child's vaccination.

The Chancellor has been asked how a young person's capacity to reason is assessed. A child's capacity to reason must be assessed similarly to an adult's capacity to reason. A patient with the right to decide and having the capacity to reason understands the nature of their illness and the choices they are faced with. They understand the information provided to them and are capable of drawing conclusions from this. A patient must also be able to come to a decision based on the information received and their own value judgements, and notify the healthcare professional about it. The greater the risks entailed in a decision, the greater the capacity to reason presumed for making the decision.

Age may be one criterion for assessing a child's capacity to reason, but it cannot be the only criterion. A child's capacity to reason must be assessed on the basis of the specific situation and the specific child, because children reach maturity and independence at different ages. If a child comes to a doctor's appointment together with a parent or with parental approval, and both child and parent are unanimous about the issue needing to be decided, then the doctor has no reason to assess the child's ability to reason (see in more detail the [guidelines](#)).

A school nurse vaccinates children at school in line with the Minister of Social Affairs regulation, under which the consent of a parent or other legal representative is asked for vaccination.

Under the Minister of Social Affairs regulation, the school informs a parent about planned vaccination at least one week in advance and also asks for their consent. Consent or refusal is recorded in writing and is maintained among the pupil's health documents. If a pupil's vaccination is held off for some reason, the school healthcare provider proceeds from a parent's previous consent and informs them about the new time for vaccination at least one week before it takes place.

If one of the parents consents, a school nurse may also presume consent from the other parent. If the other parent refuses, the child cannot be vaccinated on the basis of consent by one parent.

Under current legislation, a school cannot oblige children to be vaccinated but it may provide information about organisation of vaccination and study at the school. For instance, the rules on quarantine for a pupil who was a close contact depended on whether the pupil was vaccinated or not and whether they allowed themselves to be tested for the coronavirus. When offering explanations, school staff must remain as neutral as possible. The school may not actively promote vaccination. Nor may the school allow unvaccinated pupils to be bullied at school.

### **Explaining vaccination-related issues to a child**

A parent enquired whether a doctor explains to a child the issues related to a vaccine against Covid-19. A doctor is competent to provide information to a child and their parents by proceeding from the best available knowledge.

Both at school, at a general practitioner's appointment as well as elsewhere a healthcare professional must take into consideration the [principles of child-friendly healthcare](#), regardless of who provides consent for the child's vaccination. A child is entitled to participate in decision-making concerning their health and medical treatment, even if consent is provided by a parent.

### **Liability for complications due to vaccination**

A parent asked the Chancellor who is liable for complications arising as a result of vaccination. Under the [Law of Obligations Act](#), healthcare services must at the very least conform to the general level of medical science. If necessary, a patient must be referred to a specialist doctor. In the case of vaccination, its temporary and long-term contraindications must be identified.

Pharmacovigilance is carried out by the [State Agency of Medicines](#). In order to enable the State Agency of Medicines to have sufficient information to perform its task, the law lays down the procedure for notifying side effects of medicines to the State Agency of Medicines. Under this procedure, the State Agency of Medicines also receives information about side effects through the doctor or nurse organising vaccination. The State Agency of Medicines, in turn, must notify the [Health Board](#) about the side effects of vaccines (see the [Medicinal Products Act](#)). Information about

the side effects of medicines (including Covid-19-vaccines) is available on the [website of the State Agency of Medicines](#).

At the time when the parent sent their petition, Estonia had as yet no available [vaccine insurance system](#) which also enables claims for [compensation of damage](#) arising from vaccination against Covid-19. The vaccine insurance system was created in spring 2022.

## **Children and healthy diet**

The Chancellor was asked to specify which legislation imposes on children the duty to eat healthily and how children's rights are linked to these duties. The Chancellor's advisers explained that a child's duty to maintain their health is not a legal duty. No international instrument contains the duty in this form.

Human rights instruments mostly set out people's rights and freedoms but not duties. However, these rights and freedoms are not unlimited and duties can be viewed primarily through responsible exercise of rights.

## **Sale of energy drinks to children**

The Chancellor was contacted by a parent with a concern that children can buy energy drinks from vending machines. The Chancellor explained that the sale of energy drinks to minors is not prohibited under Estonian law. Nevertheless, several companies have followed the [best practice on marketing energy drinks](#) under which they have refused to sell energy drinks to minors. Not all kiosks, small shops and other similar places have taken up the practice, so that vending machines are not necessarily the only place where children can buy energy drinks. However, everyone can call on energy drink sellers to follow the best practice.



## Children with special needs

Under the law, all children in Estonia who are one-and-a-half to seven years old must receive a kindergarten place. This includes children with health problems for whose assistance a kindergarten must offer various support services. Unfortunately, the actual situation is different.

For instance, the Chancellor was contacted by a parent whose child with diabetes could not attend kindergarten equally with others. Although all problems were resolved over time, the Chancellor analysed the kindergarten's activity during the two previous school years and [found](#) that the kindergarten had failed to ensure the child a possibility to use the kindergarten place in line with statutory requirements. For a long period, the child could only attend kindergarten half a day at a time, and on several occasions the kindergarten asked that the child be left at home because the group teachers who were used to dealing with the child were not at work that day.

Since the family had on several occasions contacted the Tallinn Education Department for assistance, the Chancellor also analysed the lawfulness of the Department's activities. In the Chancellor's [assessment](#), the activities of the Tallinn Education Department were not sufficiently productive in order to enable the child with a diabetes diagnosis to continue attending the kindergarten without impediments and in a manner appropriate to the child. For instance, the Department failed to assess whether the kindergarten's activity complied with legislation. Nor did the Department try to resolve the situation when kindergarten teachers needed additional assistance to support the child but the city district administration refused to assign a support person to the child. The Department violated the principle of good administration when it failed to answer the parent's questions. The Chancellor recommended that Tallinn Education Department should avoid such mistakes in the future.

The Chancellor was also asked for assistance by a parent where a kindergarten had refused to admit their children with special needs unless accompanied by a support person. The parent was concerned that the kindergarten had also partially failed to comply with the recommendations given by the external advisory team of the Education and Youth Authority (Rajaleidja) under which the assistance of a special educator and a speech therapist was prescribed for the children.

In the course of resolving the petition, the Tallinn Education Department and the kindergarten admitted to the Chancellor that the municipality is of course responsible for enabling a support

person for a child and the kindergarten cannot refuse to admit a child without a support person. The Chancellor [recommended](#) that the municipality should analyse how to resolve the situation where for some reason a support person cannot perform their tasks. The Chancellor also asked the municipality to comply with the Rajaleidja decision and provide the necessary extent of support services to children in the kindergarten adjustment group that the children attend.

The law does not allow refraining from organising support services merely because a kindergarten does not have enough support specialists. The services of a speech therapist and special educator must be offered on-site at a kindergarten but in justified cases this may also be done outside the kindergarten if this is in the child's best interests and the municipality arranges the child's transport to the speech therapist and back.

Another family was also concerned about the absence of a support person. The parent explained that for a long time their child had been unable to attend kindergarten because they had no support person. This, however, also interfered with the parents going to work and, moreover, the child failed to obtain preschool education at the kindergarten. Since other families living in Tallinn have also had problems with finding a support person for their child, the Chancellor [asked](#) Tallinn city to change the organisation of the support person service so that children in need of assistance actually do receive assistance.

The Chancellor was asked for assistance by a family with a disabled child. The local authority assessed the family's need for assistance but decided to help the family only when almost a year had passed from the moment of applying. Assessment of the need for assistance revealed that since the children needed constant assistance and supervision the mother's burden of care was too heavy. The city granted a carer's allowance to the disabled child's family but this was not sufficient to prevent the mother's burnout – this is the conclusion also reached by the city itself in its assessment of the need for assistance. Offering a kindergarten place or a place in childcare or assigning a support person would have been of assistance but the city had failed to pass those decisions and only limited itself to carrying out assessment.

The Chancellor [explained](#) that a person requiring assistance must be contacted as soon as reasonably possible if the situation so requires. After assessing the need for assistance, the local authority must decide whether and what assistance a person needs and to what extent and under what conditions

it will be provided. A local authority may not limit itself only to carrying out assessment. A decision on provision of assistance must be made within ten working days.

The Chancellor also investigated a case where a police patrol had to take a girl suffering from mental health problems to a psychiatric hospital but in doing so repeatedly used forcible means of restraint. In view of the specific situation, the Chancellor did not consider the conduct of the police patrol clearly excessive. However, the Chancellor found that the need for repeated use of direct coercion or special equipment could be reduced if health, social and law enforcement authorities cooperated more closely. In the event of exceptional cases, it would be reasonable if the police discussed the situation with the attending doctor of the person in need of assistance. The doctor can advise how the police could calm the person down so as to minimise interference with that person's rights. It would also be of assistance if representatives of the Police and Border Guard Board were to attend meetings of social work and health specialists.

## Inspection visits

During this reporting year, the Chancellor inspected the activities of the [Valgejõe Study Centre of Maarjamaa Education College \(Maarjamaa Hariduskolleegium\)](#). Maarjamaa Education College operates at two study centres. The Chancellor visited the [Emajõe Study Centre](#) during the previous reporting year.

Maarjamaa Education College is an institution intended for living and study by young people referred to a closed childcare institution under court order so as to enable their all-round development and successful coping with support from the childcare institution without harming themselves and others.

Both study centres use modern premises. Staff at the Valgejõe Study Centre of Maarjamaa Education College have been able to establish a good relationship with the children at the centre. The children were particularly satisfied with the psychologist.

The Chancellor asked the centre to ensure that young people studying there would receive the necessary therapy and support from a psychologist speaking their mother tongue, and that assistance from a psychologist is offered as soon as possible after a young person's arrival at the centre. A careful approach is needed in cases where, for reasons of security, a pupil has been placed either in a seclusion room or for a longer period accommodated separately from other young people. For a young person separated from others for a long time, the study centre must have prepared a medical treatment and rehabilitation plan to help them blend into the company of other young people as quickly as possible.

Young people considered it very important that they had been able to use their mobile phones at the centre, especially when direct meetings with the family were restricted (e.g. because of the spread of the coronavirus). The Chancellor appealed to the staff at the centre that the rules for use of the telephone and contact with the family must be clear and fixed and must be complied with. The minimum time allowed for using the phone may not be reduced for the purpose of influencing a pupil, and home visits may not be restricted.

## A child's data in registers

During the reporting year, the Chancellor also had to deal with issues concerning a child's personal data.

The Chancellor was asked for assistance by a parent who had been deprived of family benefits because, according to the population register data, they had no right of custody in respect of their child. At the request of the rural municipality, the court had restricted the parent's right of custody by way of interim protection and assigned a temporary guardian to the child for the duration of judicial proceedings. However, the municipality failed to initiate the main judicial proceedings for reaching a decision on the merits, nor did the municipality inform the court about the change of circumstances. Therefore, after expiry of the deadline for interim protection set by the court order, confusion arose as to who had the right of custody of the child.

After the Chancellor's intervention, the authorities reached consensus regarding the interpretation of laws: once the interim protection order restricting a parent's right of custody loses validity due to expiry, and no final order has been made, the parent's right of custody resumes. The Chancellor [noted](#) that if a municipality wishes to have recourse to the court to restrict a parent's rights, then they must comply with all the statutory principles.

Another case also concerned a situation where confusion reigned about a child's legal representative and recipient of family benefits. By way of interim protection, the court had appointed temporary guardians for the child for half a year but during this period had not managed to make the court order in the main case. For two and a half months the guardians were deprived of parental benefit and allowance for a child under guardianship, even though they took care of the child during the entire court proceedings and by court order terminating the judicial proceedings the court also appointed them as the child's guardians.

The Chancellor's advisers helped the Social Insurance Board to find a solution to the unfair situation, enabling retroactive payment of parental benefit to the guardians for the period remaining between the interim protection order and the final court order. However, retroactive payment of the allowance for a child under guardianship could not be paid. In addition, the Chancellor drew the attention of

the chair of the court to the fact that a delay in appointing a guardian may deprive the guardian of allowances or benefits.

The Chancellor was asked for assistance in identifying a father. The child was born while the father was on a foreign mission, so that he could not officially accept his paternity here on site. However, the child's parents wanted their child not to be registered as the child of a single parent in birth documents. With the help of the Ministry of the Interior and the office of Tallinn notaries Erki Põdra and Kätlin Aun-Janisk we managed to help this family by using remote identity verification.

The Chancellor was contacted by several parents who could not register in the population register their child born at home. The impediment was that parents and local authorities and the ministry were of different minds as to the required medical certificate under which a child's data can be entered in the register. The Chancellor explained to the parents the possibilities for protecting their rights through extra-judicial challenge as well as judicial proceedings.

By now, a court judgment has entered into effect by which the court stated that a local authority must examine an application for registration of the birth of a child born at home even if the parents have no medical birth certificate from the maternity hospital ([Tallinn Administrative Court judgment](#) in case No 3-21-2840). The court also noted that norms concerning registration of a birth should be revised because the primary purpose of the restrictions should be to ensure the accuracy of the data. Families who have decided to opt for an unassisted home birth cannot be "punished" for this with unnecessarily complicated bureaucracy.

Problems also arose in connection with registration of a child's residence data. The Chancellor was contacted by a mother who submitted a notice of residence for herself and her two children in the electronic population register but failed to register her own and both her children's new residence. The impediment was the technical solution which does not enable the e-population register to transfer a child's notice of residence to the local authority if the other parent has failed to consent through the e-population register. The system automatically cancels the application after 30 days but the person submitting the notice of residence is not notified of this. This leaves the person with the mistaken impression that the local authority has received the notice and is dealing with it.

The Chancellor [recommended](#) that the technical solution for the e-population register should be changed so that, regardless of shortcomings in the notice, the notice of residence posted by a person

still reaches the local authority. In addition, the Chancellor recommended carrying out a comprehensive analysis of the whole procedure for submission of a notice of residence and deciding on it - in particular the part concerning submission of notices of residence that contain shortcomings.

## Prevention and promotion

Another of the Chancellor's tasks is awareness-raising of the rights of children. As Ombudsman for Children, the Chancellor prepares analytical studies and surveys on the basis of which she makes recommendations for improving the situation of children. The Ombudsman for Children represents the rights of children in the law-making process and organises a variety of training events and seminars on the rights of the child.

### International cooperation project on climate justice

During the last reporting period, the Chancellor's Office joined the "[Let's Talk Young, Let's Talk About Climate Justice!](#)" project of the European Network of Ombudspersons for Children (ENOC). Children and young people participating in the project can have a say in debates on issues of the rights of children and young people and climate justice.

Twelve young people from Estonia aged 13– 16 participated in the project. Hanna Gerta Alamets, a member of the [Youth Environment Council](#), explained to young people what climate justice means. Fashion designer [Reet Aus](#) showed how she creates and produces new clothes out of textile leftovers from the clothing industry. Young green activist Johanna Maria Tõugu spoke about how young people can act in the name of climate justice. At the Mondo non-profit association, the card game [climate school](#) was played together with representative of the youth movement [Fridays for Future Eesti](#). Finally, young people visited the [combined heat and power plant](#) of the Utilitas energy group in order to learn about renewables and bioenergy.

Based on these meetings, young people offered their recommendations about the rights of children and young people and climate justice. They emphasised that climate issues should be better reflected in curricula, so that children and young people could better understand climate change and its effect on the future of children and young people and so that they would learn to take responsibility. In the opinion of young people, support should be provided to schools in order to offer more climate-friendly school food (for instance one vegetarian food day organised every week) and less school food would be wasted. Young people also found that, in the name of climate justice, several movements and initiatives need more opportunities for cooperation so as to enable their activities to exert a stronger impact (e.g. a Eurovision of green ideas).



With the help of an instructor, a graffiti and Instagram feed will be prepared. Two young people attended the meeting of ENOC youth counsellors in Bilbao in order to present recommendations by young people in Estonia. By taking into account opinions from young people from several countries, European Ombudspersons for Children prepare proposals for international organisations and decision-makers in their own countries.

## **Children's report to the UN Committee on the Rights of the Child**

By acceding to the [UN Convention on the Rights of the Child](#) in 1991, Estonia assumed the obligation to ensure the rights of the child for all children in Estonia. Implementation of the Convention is monitored by the [Committee on the Rights of the Child](#) to which countries must submit regular reports about the situation of the rights of children. Based on these reports, the Committee assesses how the rights of children are guaranteed and makes recommendations to the country for improving the situation.

In 2023, the Committee on the Rights of the Child will once again expect a report on the situation of children's rights in Estonia. Apart from the government, the Chancellor of Justice will also prepare an overview of the situation of children's rights. On the initiative of and with support from the Chancellor, this time children and young people themselves will also submit an overview to the Committee on the Rights of the Child about how children in Estonia live and what else needs to be done for children.

The children's report will be drawn up by ambassadors for the rights of the child of the Estonian Union for Child Welfare. The working group comprises seven ambassadors for the rights of the child. They organise meetings with children in different places in Estonia and gather children's ideas. Subsequently, the working group will prepare an overview of the situation of the rights of children in Estonia based on ideas and opinions expressed by children and young people.

Under the guidance of the Chancellor's advisers and staff of the Union for Child Welfare, children themselves can decide how they gather ideas from other children and present them to the Committee. The children's report to the Committee on the Rights of the Child will be drawn up in 2023. The Chancellor's adviser Andra Reinomägi has written in more detail about preparing the children's report in the [webzine "Märka Last"](#).

## **Prevention of ill-treatment in sport and hobby activities**

The Chancellor received letters from several parents who were dissatisfied with the way a trainer (or instructor) treated their child.

It is clear that no justification whatsoever can exist for ill-treatment of children, regardless of where or in what form it occurs. At the same time, in sport or hobby activities it is not always easy to recognise ill-treatment.

Based on the definition of ill-treatment under the Child Protection Act, treatment of a child in any manner which endangers their mental, emotional or physical health can be considered ill-treatment. While everyone can imagine what physical ill-treatment is, recognising mental ill-treatment and differentiating it from instruction or training requiring effort is more complicated. The [code of conduct for sports staff](#) contains examples as to what a trainer or instructor may do or should not do. According to the code, mental ill-treatment includes, for example, humiliation and mockery. Constant criticism or total lack of feedback can have an equally negative effect on a child. Mental ill-treatment causes a state of tension which may lead to serious or irreversible harm to a child's emotional development (in more detail, see the code).

Possible risks can be recognised and prevented by an age-appropriate conversation between parent and child about the nature of ill-treatment. Ill-treatment can also be prevented if sports clubs, parents and children discuss the ethical basis for activities. It is beneficial for everyone involved if prior discussion has taken place and rules have been defined as clearly as possible as to what is allowed and what not in a specific sporting activity and how to behave in ambiguous situations.

A parent could also previously check the background of the people with whom the child has contact in the course of sporting or hobby activities. Under the Child Protection Act, a person who has been punished for certain criminal offences (e.g. physical abuse and sexual offences against a child) may not work with children. The criminal record of a person dealing with children must be checked by their employer, but a parent can also check in the criminal records database (as of 1 October 2022 this is for free) whether their child's trainer or instructor may have a criminal record. A parent may also check whether a trainer or instructor has acquired the profession of trainer or other specialist. This information is available from the [register of professions](#), and about trainers also from the [sports](#)

[register](#). A professional qualifications certificate does not turn a trainer or an instructor into an ideal person but assures that the person's knowledge, skills, experience and attitude necessary for work have been verified.

If a child tries to signal that something has happened to them, it is necessary to listen to the child carefully, believe them and acknowledge them for sharing their concern. An adult must clearly tell the child that they are seeking help. This means the need to contact people who are able to offer the child professional assistance. First of all, it is possible to consult with specialists on the child helpline (116 111).

A parent may not keep information about possible ill-treatment to themselves. The police must be notified in the event of suspicion that a criminal or misdemeanour offence has been committed in respect of a child. A possible case of ill-treatment must also be notified to the sports club. It is reasonable that a parent should first contact the trainer or their employer to discuss complaints rather than turning to the (social) media.

Sports clubs should take seriously all reports about ill-treatment. Recognition is due to all the organisations that have prepared a procedure for dealing with cases of ill-treatment and also follow it in practice. If necessary, a sports federation or also the [Olympic Committee](#) or a [foundation responsible for sports ethics](#) can assist. Everyone must stand up for safe sport.

Often, a child and parent are hobbled by fear that public expression of any suspicion would terminate a young person's cooperation with a recognised trainer or a good sports club. However, to spare children and avoid even bigger possible traumas in the future, it is necessary to voice any such suspicions.

Contractual disputes may also arise in connection with cases of ill-treatment, for instance if a parent wishes to terminate a contract and stop paying for training sessions. Mostly these contracts involve a private law relationship between a child's adult representative and an undertaking focused on sports. If possible, disputes should be resolved by agreement. However, both parties may always also have recourse to the court to protect their rights.

Sport – especially competitive sports – presents demands on everyone involved. Success comes through effort. A child, parent and trainer must together set the aims for engaging in sport. In doing

so, it must be clear whether a child attends training because of the joy of movement and spending free time or whether the objective is to succeed and achieve results. Efforts must be made and time is required accordingly. A trainer must justify the trust of a child and parent, be demanding and persistent, while also being honest and, if necessary, direct. Good trainers do not shout or hit, they are able to motivate young people differently: safely and without ruining the joy of sport, maybe sometimes even using humour.

## **Information materials, training and events**

The Chancellor's Office tries to contribute to promoting the field of child protection by organising training sessions for specialists.

Over the years, the Chancellor's advisers have prepared a variety of video and printed materials introducing the rights of the child. Among other things, police officers and prosecutors have been offered [training events](#) on child-friendly proceedings and [guidelines](#) for parents have been drawn up offering an overview of the rights of the child on first contact with the police.

Training events and information material on these topics are still necessary because unfortunately it still happens that a child's rights and interests are not taken into account. For instance, the Chancellor was informed of a case where a police officer interviewed the victim – a child attending elementary school – to verify suspicion of domestic violence but failed to notify the child's parents of the interview. Where a child and parents may have conflicting interests, the police are entitled not to involve parents but in that case a state legal aid representative must be appointed for the child. This was not done. Nor were the parents informed of the fact that criminal proceedings had been terminated and there was no longer a reason to presume a conflict between the interests of the child and the parents. The parents were informed about the termination of criminal proceedings only after the Chancellor's enquiry.

The Chancellor's Office updated the information materials on the "[Rights of the child](#)" which provide a compact overview of the rights of the child and offer guidance about where children and adults can seek assistance in case of problems. The publication employs simple language to introduce the Convention on the Rights of the Child as well as the main principles that protect children in our

society. The information materials could serve as a useful aid for teachers wishing to speak with children about their rights and duties.

From 25 to 29 April 2022, we celebrated the international week to end corporal punishment of children. On the [Facebook page of the Ombudsman for Children](#), we published information about the consequences of corporal punishment of children and explained that limits on a child's behaviour can be set without resorting to violence. We also shared information about where to get advice and support with educational issues.

The Chancellor's advisers helped to organise the ISPCAN (International Society for the Prevention of Child Abuse and Neglect) [European Congress](#) in Tallinn. The IPSCAN congress –held for the first time in the Baltic countries – attracted more than 300 participants. In their presentations, recognised scientists from their respective fields focused on mental health, sexual and other ill-treatment of children, domestic violence, problems of children in closed institutions, protection of children whose parents are in prison and suffer from addiction, cross-border cooperation, and use of digital services.

In her opening address to the congress, the Chancellor expressed pleasure that a youth forum was also held on the margins of the congress, enabling children and young people also to take part in the event. Young people found that expressing an opinion should be something habitual for children, and they should also be taught how to express an opinion and engage in debate so as to be better able to be involved in policy-making.

Presentations offered many new ideas about how to ensure children's well-being in Estonia. The discussion also focused on how healthcare professionals can use proven and effective techniques for recognising and notifying ill-treatment of children, or how to identify children's risk of suicide.

At the congress, a Chancellor's adviser introduced the indicators for the rights of the child. The indicators can be found on the [homepage](#) of the Chancellor of Justice.

Under the leadership of the Chancellor's Office, a training event took place for Estonian probation supervision officers, prison officers and child protection workers on "Children of parents in prison: their rights and needs". The training was carried out by the head of the network [Children of Prisoners Europe](#), Liz Ayre, and the project manager of the Probacja Foundation, Ewelina Startek. The training was carried out in cooperation with the Ministry of Justice and the 2014–2021 European Economic

Area and Norway grants programme under the heading “Local development and poverty reduction” (a project on creating a system for special treatment of juveniles).

On 5 May 2022, the Chancellor of Justice and the Chancellor’s children’s and youth rights advisers met with youth workers. The discussion focused on difficulties that young people must cope with, and gratitude was expressed to youth workers who in the frame of the Youth Prop Up (*Noorte Tugila*) programme have helped to motivate Estonian young people to study, work and cope in life.

On 3 June 2022, the Chancellor’s advisers Andres Aru and Kristi Paron spoke on the Kuku Raadio live radio programme “Kahe vahel” about education, the mental health of children and young people, and other issues related to the well-being of children.

In the [journal \*Juridica\*](#) the Chancellor’s adviser Kristi Paron wrote about child participation in decision-making concerning them and, more specifically, about how to assess the child’s maturity and give due weight to the child’s views.

## **Programme on the rights of the child at the Black Nights Film Festival**

This year, too, the children’s and youth film festival ‘Just Film’, held as part of the Black Nights Film Festival (PÖFF), included a programme on the rights of the child, prepared in cooperation between Just Film, the Chancellor of Justice, the Ministry of Justice, the Social Insurance Board, and the Union for Child Welfare.

For the second consecutive year, children and young people were also involved in selecting films. The programme on the rights of children featured for the ninth time so far. Screening of selected films was followed by debates with experts and well-known personalities discussing the films together with viewers. To increase the interest of young people with Russian mother tongue, more and more films in the programme have also been translated into Russian.

This year, it was possible to watch the films at cinemas in both Tallinn and Tartu. As a lead-in to films, video clips were shown in which children and young people themselves introduced the rights and duties arising from the Convention on the Rights of the Child. After the end of the main festival, several films were available for viewing at the PÖFF web cinema. A total of 2128 cinema lovers went to see the films within the special programme on the rights of children.

## **Merit awards event “Lastega ja lastele”**

The Ombudsman for Children can further contribute to making society more child-friendly by recognising good people who have done something remarkable either together with children or for children.

The merit awards event „[Lastega ja lastele](#)” (With and For Children), which was brought to life by organisations championing the interests of children, was held for the ninth time in 2022. At the family day in Kadriorg, the President of the Republic and the Chancellor of Justice acknowledged those who have significantly contributed to the well-being of children through their new initiatives or long-term activities. This year’s merit awards event was also intended to support children with cancer in Estonia and Ukraine. A [television programme](#) was also made featuring this year’s merit awards event and the family day, screened on 1 June, the International Day for Protection of Children, on the public *ETV* channel.

## Children and local governments

Children and young people are entitled to their say in organising local life. People aged 16 or older are entitled to vote in municipal council elections. Children and young people can participate in youth councils, and pupils' representative bodies in schools look after pupils' interests.

However, many children and young people do not belong to representative organisations and their voice does not reach decision-makers. The reasons may be that no one asks for their opinion, they are considered too young, they live too far from the centre, are not sufficiently proficient in Estonian, or are hindered by a health problem. The Chancellor already drew attention to the limited opportunities for children to participate in the society in her [report](#) where she gave an overview of implementation of the UN Convention on the Rights of the Child. The data from the 2018 [survey](#) on children's rights and parenthood also reveal that children lack sufficient possibilities to participate in the community.

Adults must ensure that the needs and opinions of all children are taken into account in decision-making concerning local life. Participation creates social cohesion in a community, binds generations, makes the voice of children heard, and through this creates a more satisfactory living environment for everyone. With that in mind, the [Chancellor](#) called on participants in local elections to keep in mind the interests of all children and young people. Children and young people are the best experts about their own needs!

### **The voice of young people in local elections**

Before the 2021 municipal council elections, the Chancellor's Office called on children to gather observations about the place where they live. They were asked to photograph places that are child-friendly, where children's needs have been taken into account, and where children feel comfortable. At the same time, examples of child-unfriendly or outright dangerous places were also expected. An overview with children's observations was sent for information to all city and rural municipality governments. In the course of the project, video material "[Laste ja noorte hääl kohaliku elu korraldamisel](#)" (The voice of children and young people in organising local life) was also prepared. The Chancellor's Office organised the project in cooperation with the Estonian Union for Child Welfare and the Estonian Centre for Applied Anthropology.



## **Political campaigning at school**

On the initiative of the Estonian National Youth Council and with support from the Ministry of Education and Research and the Office of the Chancellor of Justice, agreements on [guidelines](#) for schools during elections were updated in spring 2021. Guidelines include principles on how to speak about elections honestly and freely and 'in a cool manner' at school, while remaining politically impartial.

Respecting the principles is more generally a matter of political culture. Candidates are not as such prohibited from introducing their political objectives and election promises in educational institutions. Organising pre-election events in schools is also allowed, but in doing so equal treatment of all candidates must be ensured. Everyone can draw the attention of the head or owner of a school to violations of the impartiality principle and ask for inappropriate behaviour to be rectified.

Before the elections, the Chancellor was contacted by several people who believed that some schools had failed to observe these principles. For instance, the director of Narva Language Lyceum sent an appeal to parents to support her candidacy at the elections. In doing so, she asked pupils to deliver the letters to their homes and in return gave pupils chocolate. Since neither the head nor the owner of the school found anything inappropriate in this situation, the Chancellor [recommended](#) informing the Ministry of Education and Research as the Ministry supervises the lawfulness of the activities of schools and owners of schools.

The Chancellor was also informed about election advertising posted in the grounds of Sinimäe Basic School. The Chancellor explained that, as a rule, advertising on school premises is prohibited. The only advertising allowed concerns children's behaviour, events, hobby education or study opportunities. Advertising for adults is also allowed at schools during the period when no instruction is taking place. Compliance with the requirements of the Advertising Act is supervised by the Consumer Protection and Technical Regulatory Authority.

## **Youth council members on rural municipal and city council committees**

It is extremely welcome if young people are actively involved in deciding local matters. For example, in Toila members of the youth council participate in the work of standing committees of the rural

municipal council. In order not to err against the statutory requirements when involving young people, the rural municipality contacted the Chancellor for an explanation. A representative of Toila Rural Municipality Government asked whether minors representing the youth council may participate in the work of standing committees of the municipal council and whether they have to present parental consent for this.

The Chancellor's adviser [explained](#) that the rural municipality itself may decide whether to involve representatives of the youth council in the work of municipal council committees. The committees as well as the youth council perform an advisory function but they do not enact legislation. The laws do not preclude a youth council from advising a rural municipal council, inter alia, via its representatives who belong to municipal council committees.

The law does not explicitly regulate the issue of parental consent, but in the interests of legal clarity the Riigikogu may do this. However, it may be concluded from legislation that young people who are minors do not need to present parental consent to participate in the work of the youth council. Accordingly, members of the youth council who are minors also do not need to present parental consent to participate in the work of a rural municipal or city council committee.