

PANEL DISCUSSION ON GOVERNANCE AND GOOD GOVERNANCE IN ESTONIA

Following the four scholarly presentations, a panel discussion took place where a group of Estonian politicians, business people and representatives from non-profit organizations were given a chance to express their views on and experiences with governance in Estonia. The panelists were Urmas Reinsalu (MP, Res Publica), Eiki Nestor (MP, Social Democratic Party), Enn Veskimägi (CEO, Standard Ltd and Chairman of the Council of the Estonian Employers' Confederation), Erki Mölder (CEO, Quattromed Ltd and Chairman of the Estonian Biotechnology Association), and Mall Hellam (Executive Director, Open Estonia Foundation). The discussion was moderated by Vello Pettai.

Mall Hellam:

I am very gratified that we are talking today about such an important thing as good governance. Good governance has recently become a very popular phrase, which was first raised in the Estonian public domain by the Network of Non-Profit Associations and Foundations of Estonia, which organized its yearly meeting around the same topic last autumn.

As Professor Drechsler correctly pointed out, many people would like to know what is the role of voluntary associations in the good governance model or in the effort to make good governance better. The importance of good governance has been talked about much and in great depth, both in practice and in theory. In principle, it means transparency, policy effectiveness, efficiency and many other good qualities. In the opinion of many people, this also means participation, and Professor Kattel spoke about this in detail, citing the example of a concrete policy in which participation and inclusion were present. He noted quite perceptively that in Estonia both government officials and politicians frequently prefer to agree on some policy amongst themselves and then come out with some overview of it to the public. Or if we talk about civic participation, then these same officials say that first the third sector should present some single leader or minister, with whom all discussions concerning the third sector could then be held. But this is not how participation works. Inclusion has its specific forms, which evolve in the course of democracy itself.

There are a number of models of inclusion, which form the basis for a well-functioning state. For example, referendums have been suggested as one form of inclusion and of direct democracy, although their popularity in the world has declined, since they can be manipulated by politicians and do not necessarily give an accurate picture of the true will of the people and interest groups. Other models include public hearings, citizen forums, cooperative councils, advisory boards. We have such groups as well. But in Estonia we lack a foundation for truly structured consultation and negotiation. If we talk about examples of how politicians have attempted to create such channels, then a good example is the agreement between the Government and the Estonian Chamber of Commerce and the Estonian Employers' Confederation, which in fact isn't bad at all. At the same time, we see that a large number of target groups have in fact been left out of this opportunity, such as small- and medium-sized enterprise associations or certain sectoral confederations, who would like agreements, whereby they would be consulted during the initial phases of policy-making and where their opinion would be taken into account.

Today's inclusion in Estonia is largely formalistic. It is clear that not every voluntary association is capable of participating in decision-making processes. But participatory models exist in many different countries and they can be studied and even adopted here. For example, in the European Parliament, the European Commission, and (so as not to be too discouraging) even in Estonia we have many models that (with a little bit of good will) can be examined and where attempts have been made to find those opinions, which help in policy-making. For instance, a very good case was the recently-adopted "Estonian Government's European Union Policy for 2004–2006", which was sent out to many non-profit organizations for consultation. It is important to stress that this wasn't done simply as a formality, but rather alongside each of the subsequent comments one could see whether it had been included in the final document and if not, then why not. This is one good example, from which all of Estonia's public administration could learn something. Hopefully, such consultations with interest groups will evolve further, since Estonia has a very clear basis for this, namely the Estonian Civil Society Development Concept, which was adopted by the *Riigikogu* (Estonian parliament) in December 2002 and which includes among its objectives laying the groundwork for structured consultation and negotiation between public authority and interest groups. Since as part of the implementation of the Concept a special joint commission of the Government has been formed, there is hope that this kind of good thing will come about and that the public sector will also utilize it. The fact that inclusion is important is shown also by the European Commission's White Paper on European governance and management, which begins with a Chinese proverb, "Tell me and I forget. Show me and I remember. Involve me and I understand."

Enn Veskimägi:

If we talk about good governance, then in reality we have had relatively good governance all these years of independence, since we have had right-wing govern-

ments and we have been very successful. We have moved forward very fast, and so on the whole things seem to be pretty good. The previous speaker mentioned business organizations, of which up until a year ago we had four, but which we now have tried to concentrate into two big ones. Estonia is simply too small to afford luxuries. As for inclusion, during the last government, we did indeed conclude a memorandum of cooperation, whereby the majority of Estonian business was able to talk about its concerns on a government level. Unfortunately, I have to admit that not everything transpired so smoothly. Numerous times we got together to talk about the same problems over and over again. Only once during that year were we able to get back a formal protocol. Hopefully it will be easier with the current government. But as a simple example, I would like to raise here the problem of [vocational] education. People have talked about reforming this area for what I think has been about eight years. Different ministers during different governments have drawn up different development plans (I would say around eight). And yet none of these has even been launched, since our main problem is that they all begin as of next year, 2005. The text may be written very well, but when in 2005 the plan is supposed to begin, we will have local elections. So I doubt whether it will be possible to implement a reform of our vocational education during that same fall. Thereafter we will have presidential elections. Again it will not be possible. [In a word,] the reform cycle is upset by this correlation with elections. This is only the most vivid example of this phenomenon.

A second problem is that Estonia's businesses are not organized well enough amongst themselves. Today we have an organization to represent small- and medium-sized enterprises, and yet most of them are also members of the Chamber of Commerce. If, for example, we have some 26,000–28,000 registered businesses in Estonia, then barely 10% of these belong to any kind of business organization. Indeed, the organizations themselves are not well off; we all have to finance their activities. And yet if only 10% contribute to their upkeep, but 90% get the benefits, then no matter what draft law is sent to us for review, we simply don't have the capacity to do it. One example: in February or March the Government or the parliament announced that [before EU accession] we had to pass some 60 or 80 laws. We were seriously worried that we won't be able to keep up. Often a draft was sent, which we were supposed to comment on, but which arrived only on Friday and our opinion was requested by Monday. Under such conditions we simply can't keep going. That's why our goal has been to include in organizations as many businesses as possible, so that we could use these organizations as an outlet and all problems that are raised could find some kind of solution.

Erki Mölder:

I would like to talk a bit about innovation. In 2002 I read through the document "Knowledge-based Estonia: Estonian R&D Strategy 2002–2006" [adopted by the Research and Development Council of Estonia]. I got from it the message that the Estonian state would like companies to begin applying new knowledge and scientific results as fast as possible from the moment they come from the

scientific laboratory. What does that mean? It means that instead of competing with large industry, where development cycles are rather slow and where technology is fixed and where the advantages of technological competitiveness have to be long-term, it would be better to enter sectors, where such processes go faster. I got the impression from this idea that the state was ready to get involved with this effort or, in a word, support these activities.

My company was launched in 1990 and we have been operating ever since. On the state level, different programs exist [to help business] and they are run by the foundation Enterprise Estonia (*Ettevõtluse Arendamise Sihtasutus*). But let's take the program to promote technology development centers, which comes from this same "Knowledge-based Estonia" document. All of Estonia's biotechnology firms, together with different academic institutes, eventually formed 4 consortia. But at the beginning this process took two times longer than was originally planned. Then, for purely administrative reasons we ended up with just three consortia. This was either because in some consortia the firms were simply too weak, or in others the role of the university was too big, or in others there was some other problem. Ultimately, the only consortium that fitted was the one to whom Enterprise Estonia had already given a big amount of money in order to keep the whole program from floundering. What conclusion can we draw from this case? The programs that are drafted to enact policy simply do not reflect Estonian realities. The companies involved in this instance were only as strong as they were at the time, and this was known when "Knowledge-based Estonia" was adopted by the *Riigikogu*. The [technology development] program did not take this into account, and so I maintain that it was a failed policy...

A second lesson to be learned relates to one of our members [in the Estonian Biotechnology Association], a foreign company, which created a branch here and operated it for three years in order to develop a relatively unique program for Estonia to cure the HIV virus. The company turned to the Ministry of Social Affairs to help find HIV-positive patients, in order to begin clinical tests. They needed HIV-positive patients who were currently not being treated. As background information, I should say that in Estonia we have about 4000 official, HIV-positive people, of whom 80 received treatment. A week ago, an answer from the Ministry arrived, which stated that the offer was indeed very interesting, but that based on Estonia's state program for HIV prevention all of our HIV-positives were already officially on treatment. My only comment would be that the treatment we actually have for those 80 people costs about 80 million kroons [5.1 million euros], so if we were to consider treatment for 4000 people, then you can do the calculations yourself...

My conclusion is that in recent times all the state policy strategies have been drafted in such a way that companies and universities come from below and say that the state should do this or a local government that. The ministry's designated committee comes together and says entrepreneurs have to reckon with this or that. And so in the end people are pointing at each other and there is no assumption of roles in terms of [someone] being able to do this and agreeing to come into the

strategy if other key organizations take the lead. I argue that until now there has been no such approach, and that is the problem with all of these policy documents. As long as there is no assumption of roles, then no one knows what to do. This is especially the case with implementing organizations such as Enterprise Estonia or the ministries (whom I mention simply because we deal with them). It is very difficult to talk with people, since each one has read the policy document in his or her own way, and there is a lack of clear communication concerning how the policy is to be transferred to the implementing organization so that everyone would understand it in the same way. I would like to see from the state a clear message concerning the role the third sector can play. Today it is assumed that the third sector merely comes and demands something. At the same time, I know that politicians don't really understand what industry wants. Presumably this is a problem of Estonia's small size, where it is quick to happen that the same people always speak and in everyone's name. This simply occurs, and it seems that this problem can also be classified under the problem of controlling the representativeness of third sector organizations and in that way be solved...In general, I would like to see from the state and from other executive bodies a significantly more comprehensive approach to solving those problems associated with implementing the "Knowledge-based Estonia" policy and in other societal spheres.

Eiki Nestor:

Good governance could be seen as a situation where all government decisions are as good as possible and serve to improve people's life. Often this idea is interpreted as effectiveness, which unfortunately thanks to the fact that we have lived for 50 years in a foreign state [the Soviet Union] has now come to coincide with the adage "the cheaper, the more effective". For example, when the state budget was being debated this year, the Riigikogu discussed the topic of fire hoses, since there is a shortage of them. If we pursue this kind of thinking, then soon we'll begin talking about having no fire trucks, and ultimately there'll be the question of who needs a firefighting service that can protect only its own station with a bucket of water. A correct approach would mean that decisions are made where they are of best use.

During the last ten years the struggle in Estonian politics [between the left and the right] has been rather veiled for the simple reason that the democratic process is boring and therefore doesn't attract the media's attention. But there are two clear understandings concerning how Estonia should be governed. The first, predominant approach, which has been represented by a majority of our right-wing parties along with the Center Party, is that "every four years there are elections to the Riigikogu, people come and give their vote, politicians and parties put together a coalition and then govern for four years. The next time when people cast their verdict on whether the politicians acted correctly or incorrectly comes only in four years." Period. Yet there is also a second approach, which I, for example, have attempted to implement. Namely, that [such intermittent participation] is not enough, that besides having one chance every four years people want to participate

also at other moments, and that it shouldn't be only the politicians who govern. Rather, it makes sense to give people not only a formal status (such as inclusion on joint committees), but also to take them to decision-making when it is warranted.

Let me give you two examples of how inclusion has been attempted in Estonia. These examples have been both successful and unsuccessful. One of them involves the Estonian Unemployment Insurance Fund. Its creation was rather complicated, but it was made possible largely thanks to the fact that Estonia's employers and trade unions agreed on how this fund should be managed. The Fund is a financially powerful insurance, which helps reduce risk in society and which is led by both employers and employees. By now we have reached a point where we could expand this system that has started up rather well and link it up with what is known as employment search services, since our existing Labor Market Board, which has continually been under-financed, has lost all credibility in the eyes of both the employers and the job-seekers. So if we talk about integrated services, it would be right to bring these two services together and put the state employment services also under a kind of public management. Unfortunately, however, one hears only the opposite. The approach, which talks about responsibility only through government, attempts to take all of this back under state control. In other words, perhaps the reason involves the 800 million kroons in that Fund, which by the way are managed better than the state's own reserves. That is, someone has a feeling that someone else without any political responsibility is there, that the money is being managed 'without us'.

Another analogous example concerns our public hospitals, where not everything has gone as well as originally planned. Here the original idea was also that such hospitals would be managed by a small health care parliament, where 5 people would represent the main 'taxpayers' (i.e. employers), 5 people the insured, and 5 people the state. However, this system no longer works, since people have not realized that we are not dealing with state money, but rather the money of the different sides. In other words, people who represent pensioners, children, the handicapped have all changed over the years, and the new people who have replaced them, have not remained cognizant of who it was who delegated them to make decisions. The result is that these places have been taken over by entirely different interests. So the effort of inclusion does not always lead to comprehension and balance, but rather different interests begin to predominate. I am convinced that management has to be public and open precisely because I believe that decisions have to be made in the right place.

In conclusion, two more examples. The attitude of Estonia's parties toward governance can be seen according to whether and who signed the Public Understanding Agreement [an initiative of Estonian President Arnold Rüütel to draw up and implement a national development plan]. Those who signed the agreement favored cooperation between civil society and the politicians. Of course, all the signatories would like to change some commas or sentences in the Agreement, but it still showed a certain broader understanding of governance. We have to fight the shadows of the past—shadows, which come from our own era.

I would like to conclude with a sad, but true story. Last year, Estonia's political life culminated with a topic, which became known as 'parental compensation' [a state scheme to compensate people on parental leave]. Our small, but brave faction in parliament was able to make it clear in the Social Affairs Committee that this issue had to be discussed more broadly. The Committee discussed it more broadly, publicly inviting different interest groups to a debate concerning which version of the parental compensation system to support, i.e. either the one presented by the government or the one which the Social Democrats put forward. The debate as such was not so essential. The sad thing was the exchange of thoughts that followed. The honorable members of the *Riigikogu* found that since the majority of people who had come to the expanded hearing of the Committee supported the Social Democrats' ideas, the hearing was interpreted by them as a get-together with the Social Democrats' support group [rather than an honest reflection of public opinion]. By contrast, the members of the *Riigikogu* saw themselves as elected by the people and thus representing the whole population. In the end, it was claimed that the hearing actually constituted a meeting between 'the people' and the Social Democrats' support group – however sad that might seem.

Urmas Reinsalu:

All of the previous speakers have brought out some pretty gloomy features of our principles of governance, and I would not like to be any different. I would simply like to add some cases, which help to explain why. For example, many problems arise when large reform packages are brought out and we lack a clearly defined procedure for managing such proposals that are either drafted or initiated by large public authorities. For instance, the tradition of 'green papers' [known in the EU] is completely lacking in Estonia. And so every new initiative immediately calls forth counter-influence; interest groups find that they have not been included; and in most instances this is truly the case. They have indeed not been included enough. But the question is, at what point does an idea reach this kind of defense phase where debate is engendered?

The second problem that arises is – who is an expert and what is the analytical culture in our public sector? This has been completely random, and there is no such tradition whatsoever in our public sector, and no criteria to evaluate such competence. I see a big danger here if we talk about parliamentarism. Parliament is defenseless in the face of executive-branch experts. For example, I would remind you of one very curious episode from 2001. When parliament was debating the NRG deal [to sell Estonia's main electricity plants to an American company], 600 pages of agreements were put forward and 7 days were given to make a decision. The important thing is that parliament needs to be able either via some contractual relationship – and here PRAXIS and other organizations would be perfectly acceptable partners – or through some other means to develop its own strategic think tank. This is one of the most burning questions in Estonia. This is not simply a sectoral-policy problem, but one of separation of powers, parliamentarianism.

The next question concerns activeness or the question of responsibility amongst civil servants, our entire public administration system and politicians. Who in the end is responsible for what? In our principles of governance, we have to talk about the need for a new *policy-based* law on governance. Right now we have succeeded in defining our different policies, state strategies and development plans. We have a legal understanding of our budgetary law. But if we look at the administrative spheres of our ministries, then in general there is no definition of what categories of development each ministry is responsible for. Who is responsible, for example, for economic development? Who is responsible for crime? These things are often regarded as so obvious that no one ends up dealing with them specifically.

Now an issue concerning the functioning of our existing laws. It would seem that we have all kinds of meticulous laws concerning, for example, public information and the requirement that everything has to be on government web pages, letters have to be answered, etc. However, our Legal Chancellor [or ombudsman] recently showed me a report where one government department (I won't mention any names) was cited as having left over 50% of its letters from citizens go unanswered. A second example, which we discussed last week in the Constitution Committee [of the *Riigikogu*] involves the well-known fact that in Estonia the salaries of prominent public officials have to be made public. But are they really? A small sampling showed that they are not. Not even in such prominent institutions as the President's Office or even in the Data Protection Inspectorate, which is responsible for information access.

So it seems to me that there is a glaring need for a set of national principles on governance. For if we speak about good governance, then I would ask, can we be satisfied with the quality of political decisions made thus far? Frankly speaking, I think that every politician's answer has to be 'no', regardless of whether they have been in power, who has been in power, and when. But one thing that I have thought about (and that the German state has also implemented) is that political parties should be banned from using the money they receive from the state budget for anything other than research on public administration or other similar topics. The defenselessness of politicians [in terms of lacking adequate analysis] when making decisions or formulating their party programs is rather analogous to the degree of defenselessness third sector people feel when they are asked for an opinion.

The need to consult and coordinate with the third sector and interest groups has been solved differently in different states. Our parliament has also adopted a development plan on this, but as yet it has not been linked up with existing practice, and this concerns the entire public sector. I say this quite openly. Perhaps one step that can be taken here (either in the parliamentary rules or some other set of procedures) would be a requirement to consult [on every major decision]. A simple, ordinary 'system of consultative rounds with a few days of notice would, of course, serve only a formalistic, rather than substantive purpose in terms of taking interests into account. [But this would be a start.] I completely agree with the opinion that a governance culture from election to election cannot work. Our

politicization is also a problem; people attempt to change administrative culture from election to election. For instance, the question of political management vs expert management. Who is 'an expert' anyway? In a small state, this is a rather fateful policy to follow. Rather, one of the best and most shining examples of public debate, where the entire society discussed the matter and developed its own opinion, concerned the privatization of our railways and electricity plants (in 2001). There hasn't been such a public dispute since our Singing Revolution [in 1988]. Over 160,000 signatures [in opposition to the electricity privatization]; people declared their opinion; the problem was even discussed at the farmers' market. I think that there are definitely more such topics for citizen debate in society. Regardless of how specific or complicated topics become, I think that society will always be ready to react.

