

EXPECTATIONS OF THE
INSPECTORS OF TALLINN
MUNICIPAL POLICE
DEPARTMENT TO INCREASE
THEIR RIGHTS IN PERFORMING
STATE SUPERVISION

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ABSTRACT

The Ministry of the Interior has twice proposed to amend the laws that allow city and rural municipality (local government) law enforcement officials to apply additional measures and use direct coercion. The aim of the study was to specify what state supervision measures and means of direct coercion are necessary for law enforcement officials of the Tallinn Municipal Police Department (hereinafter referred to as MUPO). That is also the case in a health crisis, during which police assistance cannot always be relied upon. Officials from different MUPO services were surveyed, and the heads of their departments were interviewed. The analysis of the surveys showed that MUPO inspectors have the capabilities and motivation to contribute more effectively to the protection of public order in the most populous city in Estonia. What became evident was the expectation of amending the laws, both with the need to add specific measures to the Law Enforcement Act, the Liquid Fuel Act, the Public Transport Act, and the Traffic Act and, if necessary, by granting the right to use direct coercion to local government law enforcement officials. The right of self-defence of local government law enforcement officials needs to be regulated.

INTRODUCTION

Law enforcement officials of city and rural municipality governments (hereinafter referred to as *local governments*) have the right to exercise state supervision pursuant to 19 specific laws, but the legislator has not provided them with sufficient opportunities and resources to perform their work. There are inconsistencies in the laws regarding the furnishing of the task of state supervision, an exhaustive list of specific measures of state supervision has not always been provided for the performance of tasks, and the use of direct coercion is not permitted (Vanaisak, 2018). The Ministry of the Interior has prepared motions to amend the laws to solve the problem, but they have not been implemented so far (Anvelt, 2014). In the opinion of the author, the problem was exacerbated during the COVID crisis because the police, who have a legal obligation to provide professional assistance to other law enforcement agencies in enforcing administrative acts if the enforcement consists of direct coercion (Law Enforcement Act of 2011 (hereinafter referred to as *the KorS*)), cannot always provide it to other law enforcement agencies due to the increased workload. Moreover, the right to self-defence of local government law enforcement officials remains unregulated, which should be similar to that which is provided for, for example, assistant police officers.

The study is based on two contradictory principles formulated by the legislator. The explanatory memorandum to the draft Law Enforcement Act states that the right to use direct coercion should not be granted to many law enforcement agencies. That is related to the unwillingness to share the so-called power monopoly of the state, the right of the police to use direct coercion in particular. On the other hand, it is pointed out that, if a law enforcement agency has the right to apply such a measure that also provides for the (emergency) use of direct coercion, then the law enforcement agency should also exercise the right to use direct coercion (explanatory memorandum of draft act 49, pp. 101, 105).

The analysis of legislation shows that local government law enforcement officials should have the right to use direct coercion pursuant to, for example, the Liquid Fuel Act, the Law Enforcement Act, the Public Transport Act, and other laws (Vanaisak, 2018). The same study also

points out the problem of legal ambiguity; i.e., the performance of tasks arising from law is not regulated with sufficient legal clarity for law enforcement officials – thus the task of state supervision is insufficiently formulated or it is not possible to use appropriate measures to perform such a task. For example, a local government law enforcement official does not have the right to apply a transaction for the purpose of supervising compliance over the compliance with the requirements related to the retail sale of alcoholic beverages (Liquid Fuel Act, 2003, § 49 (4) and § 52¹), and there is no competence pursuant to the Law Enforcement Act to supervise the causing of noise or light effects that disturb other people and on pollution (KorS, 2011, § 56, § 57¹, § 57²).

Tallinn Municipal Police Department, the largest law enforcement unit in Estonia, operates in Tallinn. State supervision proceedings are handled daily by inspectors from the proceedings and regional work department and the patrol and guard department. Until now, the need to supplement laws has been determined mainly from the points of view of legal scholars/theorists. The opinions of inspectors working in the street daily about the nature of the problems and the need to address them add value to the research done so far: practitioners can say what, if anything, needs to be changed to better supervise public order in the administrative territory of the local government.

1. RESEARCH METHODS AND CONDUCT OF RESEARCH

The area of research of this article is law enforcement legislation, and the original topic is the exercise of state supervision by city and rural municipality governments. The expectations of the inspectors of Tallinn Municipal Police Department to increase their rights in this area are examined in more detail.

The research problem is formulated as the question: Whether, and what kind of, means of direct coercion and additional specific measures are needed by MUPO inspectors for state supervision? The aim of the study is to find out what are the expectations of MUPO inspectors to amend the laws.

The research questions are as follows:

1. What additional specific measures do MUPO inspectors need for state supervision pursuant to the Law Enforcement Act, the Traffic Act, Liquid Fuel Act, the Building Code, and the Public Transport Act?
2. Whether and what kind of means of direct coercion are needed by MUPO inspectors for doing their work?
3. Has the life and health of MUPO inspectors been endangered in the performance of their duties?
4. Whether the right of self-defence of MUPO inspectors need to be regulated and how?

Research tasks

1. To give a brief overview of the organisation of the work of Estonian, Latvian, German, and Swiss municipal police officers.
2. The inspectors of the proceedings and regional work department and the patrol and guard department of the MUPO are to be surveyed

and the heads of their departments are to be interviewed to get an overview of which of the aforementioned laws should allow practitioners to apply additional specific measures and to use means of direct coercion if necessary.

3. The inspectors of the proceedings and regional work department and the patrol and guard department of the MUPO are to be surveyed and the heads of their departments are to be interviewed to find out whether the lives and health of the inspectors have been endangered in the performance of their duties and whether the right of self-defence should be regulated at the level of law.
4. To analyse and compare the organisation of work in Estonia and other countries with the results of the study and propose solutions to solve the problem.

A mixed research methodology was used to find the answer to the research problem. Numerical data are used to confirm verbal answers. Qualitative research proceeds from describing real life situations and aims to discover and highlight facts that coincide with the goal of the author to identify possible bottlenecks (Hirsjärvi *et al.*, 2007, p. 152). Written sources, interviews, and a survey were used as data collection methods.

The survey consists of three parts, and a total of 28 questions. The questions in the first part concern length of employment, level of education, possession of the level 5 qualification of a law enforcement official, and which legislation is being supervised. The questions in the second part concern supervision over the Law Enforcement Act (KorS), the Building Code (EhS), the Liquid Fuel Act (AS), the Traffic Act (LS), and the Public Transport Act (ÜTS); more specifically, the right to apply which specific measures is additionally needed and whether the use of direct coercion has been necessary. A Likert scale is used, in which the question contains positive or negative attitudes towards the object (Fishbein & Ajzen, 2015, p. 87). The answers were multiple-choice “yes/no” or on a five-point scale from “I do not consider it necessary at all” to “I consider it very necessary”. It was possible to give an essay answer or choose the option “I cannot answer it”. Essay answers allowed one to substantiate their opinion and provide examples of situations in which it would have been necessary to

apply additional specific measures or to use direct coercion. In the third part, questions were asked about the need to legitimise the right of self-defence and the performance of the duties added by the COVID crisis. The last question provided an opportunity to add further clarifications and observations.

The survey was conducted in the *LimeSurvey* environment of the Estonian Academy of Security Sciences between 16 and 26 May 2021.

A semi-structured interview was used as the second research method. That provides an opportunity to ask the interviewees additional questions about the topic if their statements contain any new information (Hirsjärvi *et al.*, 2007, pp. 192–200; Öunapuu, 2014, pp. 171–172). Interviewees were sent questions in advance, but the opportunity to add additional comments remained open. Both interviewees were asked 12 similar questions. The article reflects the answers that supplement the results of the survey of inspectors or add new information.

The written sources used were primarily the valid legislation and their explanatory memoranda and reference was made to relevant scientific sources. An overview was given of the bases of the employment of *law enforcement officials* operating in the capitals of different countries to compare them with those established for law enforcement officials of the Estonian city and rural municipality governments.

It is a homogeneous case study that deals with the phenomenon as a whole and uses a variety of sources. The case study allows for analytical generalisation: the results can be compared with the results of previous studies. The case confirms, refutes, or complements the existing one (Öunapuu 2014, p. 59).

When conducting a qualitative study, the main question in defining the sample is what should be the selectable research objects. In order to learn some kind of definite opinion, experience, or attitude, people who come into contact with those who cause them need to be included in the study. Therefore, a sample was formed of inspectors from the proceedings and regional work department and the patrol and guard department of Tallinn Municipal Police Department and the heads of their departments.

It is a convenience sample. The data of inspectors were obtained from the website of Tallinn Municipal Police Department. The heads of the departments excluded from the list officials who are not engaged in state supervision and who are not currently actively working (for example, who are on holiday). The survey was sent to a total of 63 people on 19 May 2021. The time for answering was until 28 May, with 61 inspectors answering the survey. The survey was anonymous to ensure objectivity.

The interviews were conducted based on a brief analysis of the survey results. The interviewees were Roland Sikk, head of the patrol department of Tallinn Municipal Police Department, and Toomas Rebane, deputy head of the proceedings and regional work department. The interviews took place in the Teams environment, with video and audio. The interviewees agreed to disclose their names. Both interviews lasted approximately 60 minutes.

2. OVERVIEW OF THE WORK ORGANISATION OF ESTONIAN, GERMAN, SWISS, AND LATVIAN MUNICIPAL POLICE

This chapter provides a brief overview of the bases of the employment of Estonian, Latvian, Swiss, and German municipal police, the right to use direct coercion, and whether and how their right of self-defence is regulated.

The term *municipal police* has existed in police history books for centuries. Their work has been patrolling and crime prevention in the territories of local government units. They have been employed by local governments and are controlled by them. Today, the so-called municipal police have different rights and obligations in different countries. They are mainly involved in patrolling and preventive work, or have the same rights as police officers to deal with more serious offences, including, for example, to detain persons as well as to carry and, if necessary, use a firearm (Donnelly, 2013, p 4). Similar to Tallinn, the name of the municipal police is used in Spain, Greece, France, and Portugal. In Austria, they are called Community Security Corps; in Germany, city police; in Belgium, the local police; etc. Regardless of their name, there is an ever-increasing need for such law enforcement units: regular police are unable to meet the ever-increasing demands of the community for security and confidence. On the one hand, voluntary organisations are increasingly more involved in making society safer, and, on the other, the state police want to share part of their burden with local law enforcement units.

Pursuant to subsection 53¹ (1) of the Local Government Organisation Act valid in Estonia, a local government may form a law enforcement unit of a rural municipality or city or appoint an official who engages in law enforcement into office, whose main function is to participate in ensuring the public order and to exercise supervision over compliance with the rules adopted by the rural municipality or city council in the jurisdiction determined by the local government. A law enforcement unit is formed and terminated, and the position of a law enforcement official is established and made redundant, by a decision of the municipal council.

The work of the law enforcement unit is regulated by the statutes, and the work of a law enforcement official is regulated by the job description. The job description sets out the requirements for the education, professional experience, knowledge, and skills, including language skills, of the official. The inspector general must have secondary or secondary specialised education – indicatively, higher education – and at least two years' professional experience. The senior inspector must have secondary or secondary specialised education – indicatively, higher education – and knowledge of state supervision proceedings and misdemeanour proceedings. The inspector has the same qualification requirements, but no higher education recommendation (MUPO website, 2021).

A municipal council must ensure the implementation of an internal audit system in the local government. The activities of a local government unit are supervised by the Ministry of Justice, the National Audit Office, and the Chancellor of Justice (KOKS, § 66 (1–3); § 48¹).

Tallinn Municipal Police Department was created on 16 October 2003 and employed 12 officials whose duty was to check tickets on public transport and supervise parking. As of 15 January 2021, 141 officials are employed at MUPO, the number of duties has increased, and the duties have become more diverse: the buildings of the city government and council are guarded, and the calls of those in need are answered around the clock. The patrol employs 68 officers, and up to five patrol teams are patrolling and solving events at the same time around the clock. 22 officials respond to the concerns of residents in the operational centres of eight different districts of the city, and separate units work on conducting proceedings with the youth, ticket and parking controls, and taxi service rules. In 2021, a rapid response team was formed, and its duties are to prepare residents for crises, advise vital service providers, develop a risk analysis and emergency plan for the city of Tallinn, assist in conducting large-scale evacuations, store and distribute personal protective equipment, provide training and exercises, provide a lifeguard service, and prepare crisis support rooms (Udeväli, 2021).

MUPO receives more than 15,000 different complaints per year; for example, 40,526 calls have been made to the hotline in nine months. In nine months, 23,487 misdemeanour cases have been initiated, and there is an average of 20,000–25,000 parking violations per year (Udeväli, 2021).

While the requirements of local government rules (e.g., the rules of keeping cats and dogs and the rules of public order) are covered by the area of protection of public order, they are subject to state supervision within the meaning of the Law Enforcement Act, and the law enforcement unit or official exercising state supervision has competence to apply general measures in such a case (Laaring *et al.*, p. 30; KorS, § 28 (1)).¹ If a specific law gives a city or rural municipality government the competence to exercise supervision in a specific area, then they are also authorised to apply specific measures. In 2021, a city or rural municipality government, in addition to the rules provided for in the KOKS, has the right to supervise 18 specific laws or rules established based thereon. The aforementioned study conducted in 2018 pointed out that a city or rural municipality law enforcement officer should have the right to apply additional measures, primarily based on the Liquid Fuel Act and the Law Enforcement Act, to perform acts against a person suspected of intoxication in particular. It was also pointed out that city and rural municipality governments should have the competence to exercise supervision over the provisions of section 56 of the KorS, pointing out that they should have the right to use physical force, gas weapons, and cut-and-thrust weapons (Vanaisak, 2018).

The work of the Latvian so-called local government police is regulated by the general police law, and they have similar rights to the state police. A local government may form a municipal police department, which operates in the territory of the local government or several local governments. Legally, MUPO is part of the police organisation, but the costs, including salary, technical equipment, and vehicles, are covered by the budget of the local government (Law of the republic of Latvia on Police, 1991, section 2¹, 15, 19, 37).

They have the right to detain persons, inspect documents of persons, apply arrest, establish identity by special identification measures, inspect alcohol

¹ Clarification: the Local Government Organisation Act (KOKS) does not have a separate chapter concerning state supervision. Ordinarily, such a chapter provides for the content of supervision by a law enforcement body and lists the specific measures that may be applied in the exercise of supervision. Pursuant to subsection 53¹ (1) of the KOKS, the main function of a law enforcement unit is to exercise supervision over compliance with the rules adopted by the city or rural municipality council in the jurisdiction determined by the local government; therefore, thus, as the competent law enforcement body, they have the right to apply only general measures, which are notification and precepts within the meaning of sections 26 and 28 of the KorS.

or drug intoxication of persons, and perform traffic supervision. They have the right to use different means of direct coercion, such as handcuffs, gas, and firearms (Law of the Republic of Latvia on Police, 1991, section 12, 19).

A person who is an adult Latvian citizen and has not been punished for committing a crime can be admitted to MUPO. MUPO inspectors must have at least secondary education, heads of departments must have higher education, and they are recruited with the consent of the Minister of the Interior (Law of the Republic of Latvia on Police, 1991, section 21).

The right of self-defence of MUPO officials is regulated by the Criminal Law (*Krimināllikums* in Latvian). Criminal liability for the commission of an unlawful act is excluded if the act has been committed for the protection of the state or the public interest (section 29 – necessary self-defence, Criminal Law, 2000).

In Switzerland, municipal police units are managed by the local governments. In most cases, the municipal police are responsible for general order and parking, but, in larger cities, they provide a full police service and have the right to arrest people.

The municipal police of the city of Geneva, for example, is mainly involved in crime prevention, but also applies different fines and penalties if necessary, depending on the type of offence. The number of municipal police officers has increased significantly in recent years. Tasks are shared with the state police, for which a cooperation agreement is entered into. The content of the agreement is based on the analysis of offences, and working time is also divided; for example, municipal police officers work in a public place to handle noise complaints until 3:00 at night on weekends. Since 2013, they also have the right to perform searches and arrest people – these relate to more serious offences such as theft, vandalism, and offences related to the possession or use of drugs. Municipal police officers also have an important role in dealing with minors, ensuring order at major events, and dealing with dog owners. The training of municipal police officers includes criminal law and proceedings, basics of community policing, ethics, business culture, psychological intervention, and traffic law. The eight-month training is theoretical and practical. Admission requirements are similar to those of police officers, include a background check, a French language examination, and physical tests,

and health requirements have been established. The training provider is the Swiss Police Institute. The final decision on hiring is taken by the mayor or the administrative board. Specific trainings are conducted, for example, to manage conflicts, deal with street harassers, deal with violence against LGB people, etc (Annon, 2021).

The federated states of Germany have their own municipal police, funded by the Ordnungsamt, or the Order Enforcement Office, which reports to the mayor (Donnelly, 2013, p. 65). Tasks vary from one federated state to another, the tasks may be similar to the powers and responsibilities of the state police, including the use of force and the detention of persons. It depends on the size and population of the local government and the approval of the cantonal government. The main focus is on minor infringements: supervising parking, motorcycle and bicycle, and market and street trading requirements (Donnelly, 2013, p. 65). Service groups similar to those in Tallinn work in Berlin, such as the proceedings and patrol group (Donnelly, 2013, p. 65).

Section 17 of the General Safety and Order Act (*Allgemeines Sicherheits- und Ordnungsgesetz* (ASOG) in German) confers the right to act as a law enforcement body. It takes three years to be trained as a city police officer. Prerequisites for admission are upper-secondary education, good language skills, and logical thinking, in addition to a strong sense of justice, an interest in justice and the law, and diplomatic negotiation skills (Die univerzichtbaren, 2021).

Municipal police officers increase the security of the residents of their area, thereby improving the quality of life of the people. In many European countries, the work of municipal police officers is becoming increasingly similar to that of state police officers, including the conduct of proceedings for offences and the detention of criminals.

Researchers from the Czech Republic and Slovakia conducted a risk analysis based on data from 2004–2019, examining the probability of municipal police officers being assaulted or injured. The results showed that, in the performance of their duties, a municipal police officer may find themselves in conflict situations, which may be physically dangerous but also psychologically traumatic; therefore, they have a high-risk job (Soltes *et al.*, 2021 p. 16).

In 2014, Chancellor of Justice Indrek Teder indicates that, from the point of view of both internal and external peace of the state, it is important that the state, especially law enforcement structures, function effectively and do not appear powerless to the public (Teder, 2014, p. 1). That also applies today with respect to local government law enforcement officials, to whom the legislator has entrusted the tasks of state supervision pursuant to specific laws but has not always authorised them to take state supervision measures necessary for their work and has completely deprived them of the right to use direct coercion to enforce the measure (Vanaisak, 2018). It is important that the local government law enforcement agency can also resolve each event to the end. Otherwise, the public will receive a signal of their powerlessness, and the general feeling of impunity will deepen.

The chancellor of justice analysed the regulation of self-defence of police officers in 2014, whether the valid law provides sufficient and legally clear bases for exercising the right to self-defence in a situation where the life and health of an officer are endangered with regard to the performance of their duties (Teder, 2014, p. 1). The same applies to other law enforcement officials. In principle, the right to self-defence under criminal law applies to everyone, including every local government law enforcement official who is performing their duties. Sootak explains that the circle of persons protected by emergency assistance is not limited (Sootak, 2021, p. 145), and representatives of state authority must enjoy full protection under criminal law to protect themselves (Sootak, 2018, p. 303; Sootak, 2007, p. 85).

The right of self-defence of local government law enforcement officials is not regulated separately by law. For example, the Rescue Act was amended in 2020, in which deminers were given the right to carry a firearm while performing their functions and to use it in self-defence, without exceeding the limits of self-defence (Rescue Act, 2010, § 26¹). The rights of, for example, assistant police officers (Assistant Police Officer Act, 2010, § 35), security police officers (Security Authorities Act, 2000, § 35), prison officers (Imprisonment Act, 2001, § 71 and § 71¹), and environmental supervision inspectors (Environmental Supervision Act, 2001, § 15) are also regulated in a similar way. Some of the aforementioned regulations have received criticism; for example, deminers are allowed to use a firearm for self-defence in the performance of their duties, but not in a situation of serious danger that may arise (Vanaisak, 2020). Soo and Tarros point

out the problem of legal ambiguity with the state of self-defence that may arise in the performance of their functions – more specifically, with the right to apply direct coercion – and indicate that the corresponding provision should be contained in the general law, or the Law Enforcement Act (Soo and Tarros, 2015, p. 710; Government of the Republic, p. 105 jj). The same applies to environmental supervision inspectors as well. The Environmental Supervision Act does provide for a self-defence norm, but does it also apply, for example, when supervising an act where the right to use any means of direct coercion is not prescribed (Vanaisak, 2019).

It is important to emphasise that everyone has the right to the protection of the state and of the law (Constitution, 1992, § 13, sentence 1). That right also extends to officials of the executive power, and the state has an obligation not only to the so-called ordinary person, but also to protect the lives of police officers and other officials (Constitution, 1992, § 16; Teder, 2014, pp. 4, 16.). The right of self-defence of MUPO inspectors should be regulated at the level of law. It should be written what service weapons are allowed and what are the rules for carrying and using them. At the same time, it is important to remember that self-defence is not the basis for the application of direct coercion and does not create additional authorised powers for the official to apply direct coercion, but only excludes the illegality of an act in criminal proceedings (explanatory memorandum of draft act 49, pp. 104–105).

3. RESEARCH RESULTS

3.1. BACKGROUND AND PROFESSIONAL EXPERIENCE OF RESPONDENTS

The subchapter provides an overview of the duties, seniority, and education of the surveyed and interviewed MUPO officials.

The survey was forwarded to 63 inspectors. There were a total of 61 respondents; i.e., 96.8% of the total sample. One respondent sent an e-mail and stated that they could not answer because their duties and knowledge mainly concerned the work of the control centre (answering calls to the helpline). Not all respondents answered all the questions (they used the answer option “I cannot answer it”). That could have been due to the specifics of the work of the respondent, in which area and under which laws they work, and it could also have depended on the comprehensibility of the question.

The length of employment of respondents varies from one month to 17 years. There were a total of seven respondents with one or fewer years of experience, 23 inspectors with more than five years of professional experience, and half of respondents had from one to five years of experience; see figure 1.

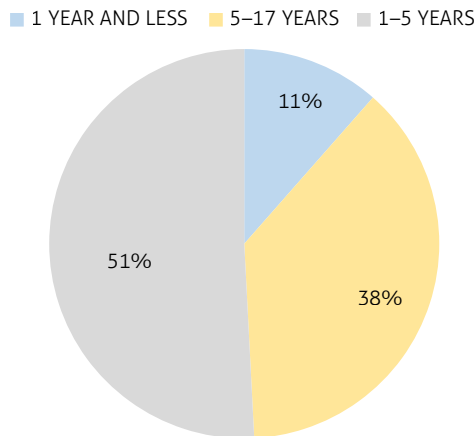


Figure 1. Respondents' length of employment

36 respondents have previous professional experience in the area of internal security. 13 employees have secondary education, and 27 respondents have vocational secondary education, including 12 with police training and one with legal training. A total of 21 employees have higher education, including five with higher police education and four with higher education in law. 18 respondents have completed level 5 training as a law enforcement official; see figure 2.

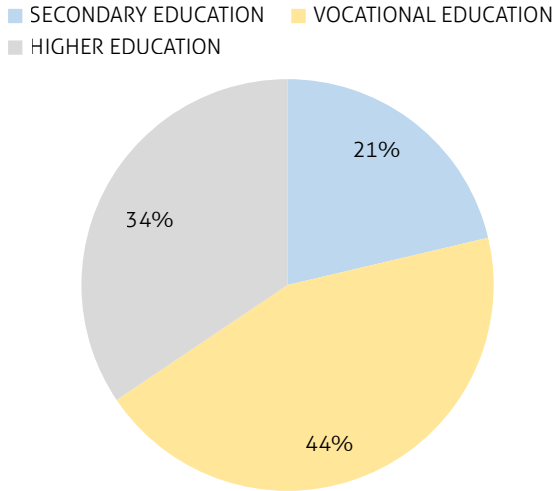


Figure 2. Respondents' education

Respondents have the most supervision over the Traffic Act (55 respondents deal with it daily or often), the Law Enforcement Act (53 respondents deal with it daily or often), the Liquid Fuel Act (46 respondents deal with it occasionally, often, or daily), and the Waste Act (34 respondents deal with it daily or often), as well as over the rules of public order and the rules of keeping dogs and cats in Tallinn (respectively, 28 and 21 respondents deal with it daily or often).

Supervision is exercised seldom over the Public Water Supply and Sewerage Act (40 respondents do not exercise it at all, and only 21 respondents have exposure), the Packaging Act (32 respondents have no exposure at all), the Building Code (24 respondents do not exercise it at all, and only 37 respondents have exposure), and the rules for the use of Tallinn

cemeteries (46 respondents do not exercise it at all, only 12 respondents have exposure, and 3 respondents cannot answer it).

Supervision above the average rate is exercised over the Trading Act, the Public Transport Act, the Nature Conservation Act, and the rules for Tallinn taxi transport requirements waste management.

Background of the interviewees

Roland Sikk has been working at Tallinn Municipal Police Department for 10 years. He has worked as the head of the internal security as well as the ticket control units. For the last six years, he has been working as the head of the patrol and guard department. There are approximately 70 people working as his subordinates: four (4) field leaders on patrol with eight-member crews, a 10-member ticket control unit, an eight-member so-called control centre, as well as an internal security unit responsible for 24/7 guarding of the council and city government, deputy head of department, and inspector general.

Toomas Rebane works at Tallinn Municipal Police Department as the deputy head of the proceedings and regional work department and has a total of 35 subordinates. Their task is to organise the lawful and timely resolution of complaints, petitions, and notices by citizens. In misdemeanour proceedings, they represent the city government. His subordinates perform various proceedings. Regional work inspectors work in different city districts, including by receiving people.

The number of respondents, their length of employment, and the content of their work, as well as their level of education, confirm that they are practitioners whose professional experience and the answers provided could be taken into account when substantiating the need to amend the law.

3.2. EXPECTATIONS OF RESPONDENTS TO AMEND THE LAW

The subchapter provides an overview of whether and what kind of specific measures are needed by MUPO inspectors in addition under the Law Enforcement Act, the Building Code, the Liquid Fuel Act, the Road Traffic Act, and the Public Transport Act.

The second part of the survey focused on the list of specific measures needed to perform the state supervision task provided for in the Law Enforcement Act, the Building Code, the Liquid Fuel Act, the Traffic Act, and the Public Transport Act (questions 7, 11, 14, 17, and 20). They were asked to indicate on a five-point scale (very necessary; rather necessary; moderately necessary; rather unnecessary; not considered necessary at all) the right to apply which specific measures is additionally needed. For each law, it was possible to point out whether, in the opinion of the respondent, it is necessary to use direct coercion pursuant to that law in particular and to substantiate their views. In order to ensure objectivity, the question listed all the specific measures that MUPO inspectors do not currently have the right to apply. The article provides an overview of those specific measures that the inspectors consider to be most important as a result of the survey.

Pursuant to the Law Enforcement Act, what is considered to be the most necessary is the right to establish and check the state of intoxication of a person and checking and establishment on site pursuant to sections 37 and 38 of the KorS is – in both cases, with 49 respondents in favour and 12 against; the taking of a person to an office and health care provider for the establishment of alcohol intoxication pursuant to section 39 of the KorS and taking of a person in a state of intoxication to recover from intoxication pursuant to section 42 of the KorS – in both cases, with 50 respondents in favour and 11 against. It is also considered necessary to detain a person pursuant to section 46 of the KorS – 55 in favour and 6 against; to examine a person and perform a security check on them pursuant to sections 48 and 47 of the KorS – supported by 51 and 55, respectively, with 10 and 6 against; see figure 3.

The eighth (8th) question concerned the competence of inspectors to exercise state supervision over section 56 of the KorS. Currently, only the police have that right as a law enforcement agency. 52 respondents, or 85% of respondents, considered it necessary to exercise that right. Therefore, section 57² of the Law Enforcement Act needs to be amended.

The inspectors did not indicate that additional measures would be necessary under the Building Code. That is also understandable because a separate unit has been called to work in the city government, and the inspectors have had no contact with this area as of late (Rebane, 2021).

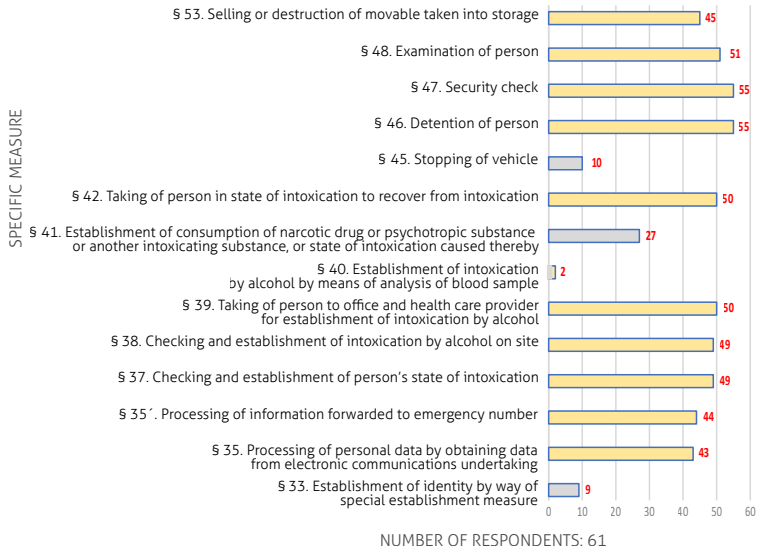


Figure 3. Additional measures required under the Law Enforcement Act

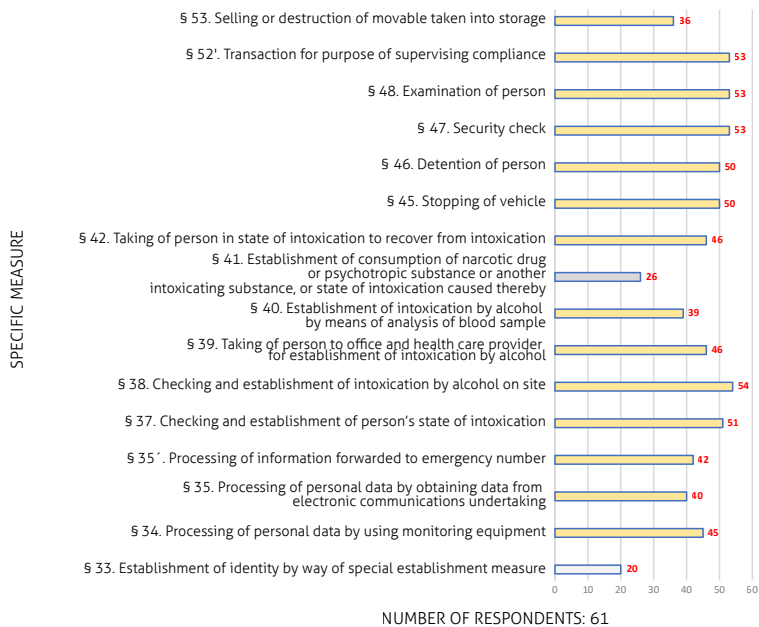


Figure 4. Additional measures required under the Liquid Fuel Act

Pursuant to the Liquid Fuel Act, what is pointed out is the need to process personal data using monitoring equipment pursuant to section 34 of the KorS – 45 supporters (with 14 against and 2 cases in which the answer could not be provided); for checking and establishment of the state of intoxication of a person pursuant to section 37 of the KorS – 51 supporters (with 9 against and 1 unable to answer); for checking and establishment of intoxication by alcohol on site pursuant to section 38 of the KorS – 54 supporters (with 6 against and 1 unable to answer). It was also considered important to perform an examination and security check on a person – in both cases, with 53 supporters (with 7 against and 1 unable to answer) – and the possibility to perform a transaction for the purpose of supervising compliance pursuant to section 57¹ of the KorS – 53 respondents in favour (with 6 against and 2 unable to answer); see figure 4.

Pursuant to the Traffic Act, what is considered necessary is stopping of a vehicle pursuant to section 45 of the KorS – 57 persons in favour and 4 against; the right to detain a person pursuant to section 46 of the KorS and the right to perform security checks – in both cases, with 53 persons in favour and 8 against; the performance of an examination of a person – 49 respondents in favour and 12 against; see figure 5.

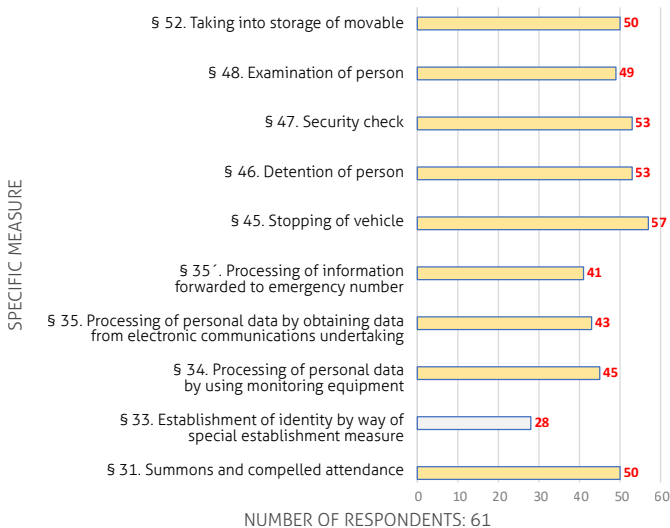


Figure 5. Additional measures required under the Traffic Act

Pursuant to the Public Transport Act, what is considered important is the right to detain a person pursuant to section 46 of the KorS – 55 respondents in favour and 6 against; the performance of security checks pursuant to section 47 of the KorS – 53 respondents in favour and 6 against; the application of a prohibition on stay pursuant to section 44 of the KorS – 46 in favour, 11 against, and 4 unable to answer; see figure 6.

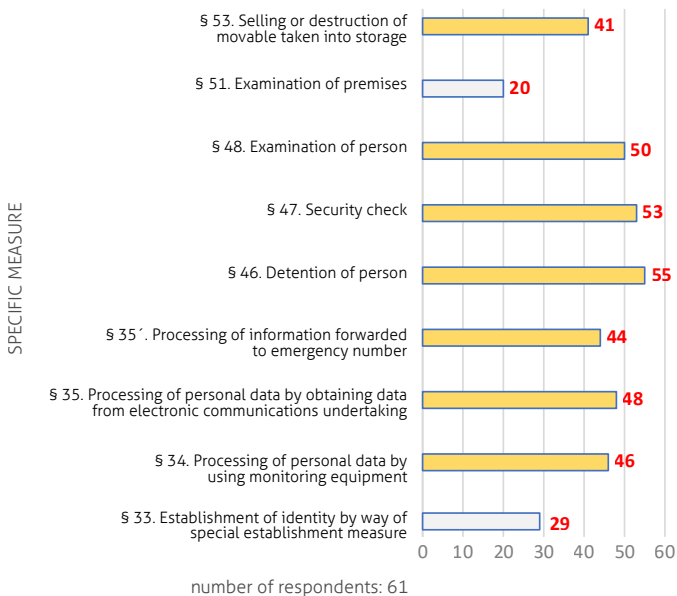


Figure 6. Additional measures needed under the Public Transport Act

3.3. IN THE OPINION OF MUPO INSPECTORS, THEY SHOULD HAVE THE RIGHT TO USE DIRECT COERCION

The subchapter provides an overview of the need for MUPO inspectors to means of direct coercion.

Questions no. 9, 10, 12, 13, 15, 16, 18, 19, 21, 22, and 23 concerned the use of direct coercion. It was asked whether, pursuant to KorS, EhS, AS, LS, and ÜTS, they should have the right to use direct coercion, and they were asked to provide examples of situations where the right to use direct coercion would have been necessary. Pursuant to the Law Enforcement Act, 52 respondents found that the use of direct coercion is necessary. Pursuant to the Building Code, the use of direct coercion is not considered necessary – 55 of the answers were no. Pursuant to the Liquid Fuel Act, 48 respondents found that it is necessary. Likewise, the use of direct coercion is considered necessary when working under the Public Transport Act – 50 of the answers were yes; see figure 7.

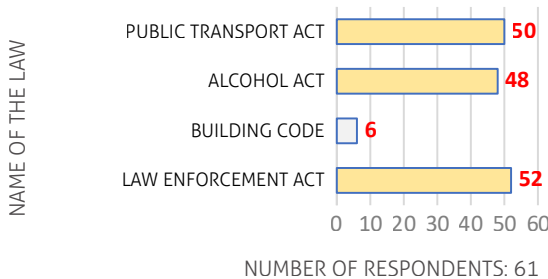


Figure 7. The need to use direct coercion to implement the laws

The inspectors provided examples where the use of direct coercion would have been necessary and, in its absence, events have even remained unresolved.

The cases of use of direct coercion described by the respondents can be divided into two major categories: those related specifically to the danger to life and health and the reasons for the need to use direct coercion; see Table 1.

Table 1. Categories and codes for the use of direct coercion based on the survey of MUPO inspectors in 2021

CATEGORY	CODE	NUMBER
Danger to life and health	attacks, shoves	1
	threatens with violence	1
	hits	1
	grazed with a moving car	2
The need to use direct coercion	offenders are obstructing work	3
	an aggressive taxi driver	4
	are aware that MUPO has fewer rights than the police	12
	drug-addicted persons	6
	persons intoxicated by alcohol	23
	passengers riding without a ticket	4
	the police do not arrive on time	6
	the person left the scene (ran away)	7
	professional police assistance	5
	the offender (dog owner) walked away	4

Respondents even referred to media excerpts that reflected situations in which orders by MUPO officials were not obeyed and they were resisted or attacked, and direct coercion was necessary to enforce the measure. Some excerpts from the answers of the respondents:

- *There are many such incidents. Owing to the lack of rights, nothing can be done, and it is necessary to limit oneself to explanatory work ... For example, there was a case where loud music was listened to between apartment buildings at night. The patrol arrived and asked to stop the violation. The citizens did not agree with it and began to insult and ridicule the officials. We had to call the state police.*
- *E.g., consumption of alcohol in places not intended for that purpose. In most cases, persons with signs of intoxication by alcohol do not respond to the orders of the municipal police official; e.g., to stop the consumption of alcohol immediately, to present identity documents upon preparing a misdemeanour report for alcohol consumption. These persons frequently act defiantly and aggressively towards the MUPO official. These persons are aware that MUPO officials do not have the right to apply additional specific measures and to use direct coercion in the*

performance of their duties. In such cases, the MUPO official is forced to call the police, but we have the skills to resolve the event ourselves.

- *Rather, these situations have to do with disciplining of persons intoxicated by alcohol. I have never had an incident where the use of direct coercion would have been necessary, but that is definitely not the rule. Colleagues who perform patrol work daily have had such situations where the right to use direct coercion would have been necessary to resolve the event and to calm the intoxicated persons and discipline them.*
- *A colleague had an incident where, upon preparing an administrative fine for a violator of road traffic rules, the angry violator arrived and pulled our car door open, kicked the car, sat in the car, and ignored the order of the colleague to stay still and wait for the police, instead driving away with the car door open, grazing the colleague, who was attempting to verbally prevent them from leaving.*
- *There have been incidents with street musicians, taxi drivers, as well as violators of public order who have refused to show a document and who have left or run away or resisted physically.*
- *A gang of drinkers are rampaging; do not obey legal orders. To save resources, direct coercion by MUPO could be used.*

Question 23 provided a whole catalogue of means of direct coercion and it asked to indicate which means, and to what extent, is considered necessary (it was possible to indicate between “I consider it very necessary” and “I do not consider it necessary at all”). The right to use physical force, handcuffs, and cut-and-thrust and gas weapons are considered important among means of direct coercion. The inspectors do not feel the need to use other means of direct coercion, including only 19 and 9 respondents who see the need for an electric shock weapon and a firearm; see figure 8. Respondents who have previously worked in the area of internal security consider the use of means of direct coercion to be “very necessary”. This is also understandable, as these persons have received thorough training in the profession of a police officer or prison officer, are aware of their abilities, and are prepared to resolve difficult situations on their own. Respondents with higher education in law find

that the use of direct coercion is “moderately necessary” arguing that the violations to be resolved by the MUPO are insignificant. Direct coercion can only be used in exceptional cases, purposefully, and proportionately (KorS, § 7-10).

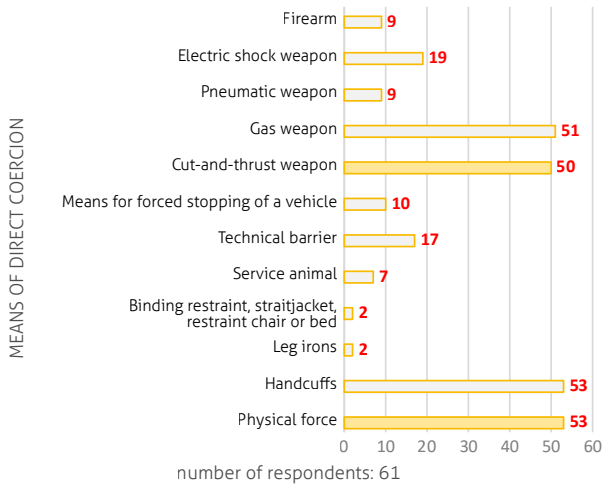


Figure 8. Necessary means of direct coercion

Tallinn City Government has purchased gas weapons for inspectors, which are worn for self-protection during work. Inspectors receive both theoretical and practical training. That may also be the reason why 64% of respondents find (39 answering yes and 22 answering no) that the valid law provides them with sufficient and legally clear bases for self-defence.

In response to question 27, the inspectors pointed out that they gained a number of additional duties upon dealing with the COVID crises. Face masks were distributed, and people were dispersed to follow the 2+2 rule both in public transport and other public places. Sports grounds and playgrounds for children were also checked. Bars, casinos, clubs, and shops were checked. In some cases, it was necessary to call on the assistance of the state police to discipline people.

3.4. HEADS OF DEPARTMENTS CONFIRM THE NEED TO AMEND THE LAWS

The subchapter combines the explanations of two heads of departments on the need to amend the laws. The heads of departments were interviewed after analysing the survey of inspectors.

Roland Sikk, head of the patrol and guard department, pointed out that a lot of resources are spent on supervising the general requirements for conduct in a public place. The main violations are related to the consumption of alcohol and dog attacks within the meaning of section 55 of the KorS and the causing of noise that disturbs others within the meaning of section 56 of the KorS. It is regrettable that the Law Enforcement Act does not provide for a specific norm to exercise supervision in case of noise and air pollution that disturbs others pursuant to section 56 of the KorS, while there are norms for bringing to justice pursuant to subsection 52 (5) of the Code of Misdemeanour Procedure and section 262 of the Penal Code (Sikk, 2021).

Problems are caused by intoxicated and noisy people who, as a collective, do not obey the order of MUPO inspectors. They know that inspectors do not have the same rights as police officers and often just walk away or resist. Sikk explained that such people who cause disturbances should be dealt with more forcefully. Inspectors should at least have the right to detain them until the offender can be turned over to the police. At the same time, he points out that inspectors have the skills and capabilities to resolve such events themselves (Sikk, 2021).

Sikk pointed out that, during the COVID crises, they had an obligation pursuant to the Liquid Fuel Act to exercise supervision over compliance with restrictions on the sale of alcohol. Even then their hands were often tied because they do not have the right to perform transactions for the purpose of monitoring compliance in a specific area. Professional assistance was also not available from other law enforcement bodies for performing transactions for the purpose of monitoring compliance because they lacked interest and need to do so (Sikk, 2021).

Sikk emphasises that inspectors should have the authority to inspect persons for intoxication when exercising supervision under both the

Law Enforcement Act and the Liquid Fuel Act, to take them to recover from intoxication, and consequently also to perform a security check and physical examination (Sikk, 2021).

Sikk pointed out that the city government had given inspectors gas sprays to use for self-defence. It may be necessary to repel both animal and human attacks. The head of the department pointed out that the corresponding training is organised for inspectors, where they are taught to defend themselves. In addition to practical training, the legal bases of self-protection are also explained. Sikk does not think that, if there existed a right to use means of direct coercion, the inspectors would begin to abuse that right. That can be ruled out by training and education. Should such cases occur, it would be followed by swift disciplinary proceedings (Sikk, 2021).

MUPO inspectors respond to more than 50 serious dog attacks per year, and it may be necessary to use a gas weapon to repel such attacks (Sikk, 2021; Uudeväli, 2021).

Sikk confirms that the Local Government Organisation Act should regulate the service weapons of local government law enforcement official and the right to use them for self-defence.

Toomas Rebane, deputy head of the proceedings and regional work department, finds that additional measures and the right to use direct coercion are not necessary when performing ticket control, while adding that the right to detain persons, similar to the right of security staff, for example, could be used to establish identity. There may be a need to use direct coercion when checking taxi service requirements. Gas sprays have been issued to officials, but they are for self-protection, and not a means for enforcing a specific measure (Rebane, 2021).

Rebane pointed out that, under the Liquid Fuel Act, they should not undertake to take persons to sober up, as this also requires additional equipment, such as special vehicles with a cell, for example. There could be a right to check intoxication. Transactions for the purpose of supervising compliance are dealt with by the strategy centre (Rebane, 2021).

Rebane provided vital examples of disturbances committed at night (barking of dogs at night disturbing other residents of the house; loud music), and thus local government law enforcement officials should definitely have the right to supervise section 56 of the KorS (Rebane, 2021).

Rebane pointed out that inspectors have been verbally threatened, but there have been no physical attacks in recent years. The gas spray is for self-protection. It could be regulated at the level of law. It gives people confidence. The need to use means of direct coercion may be discussed in certain cases. The right of use must definitely be precisely and clearly formulated in special laws, not in general law (Rebane, 2021).

Both heads of departments pointed out that the abuse of direct coercion can be prevented with adequate training. It is also important to explain and practice the principles of security tactics. It was pointed out that the use of uniform cameras also definitely contributes to the elimination of disturbances and the professional conduct of the inspector. There is a chief internal audit specialist, who is also responsible for preventing and responding to disproportionate interventions.

During the COVID crisis, the number of duties for MUPO inspectors increased. For example, playgrounds, bars, and other gathering places were inspected and more than 23,000 masks have been distributed (Sikk, 2021; Rebane, 2021; Uudeväli, 2021).

In summary, it can be said that the residents of Tallinn and visitors often call upon MUPO for help. MUPO officials have the ability and skills to intervene in violations as well as prevent them more than before. Increasing rights would make it possible to do it faster and with better quality.

4. CONCLUSIONS AND RECOMMENDATIONS

The work of the inspectors of Tallinn Municipal Police Department is similar to the model of Latvian and Swiss law enforcement officials – the duties are the same: they work in a city with the largest population in the country, they are an equal partner to the state police, but municipal police officers of Riga and Geneva have significantly greater powers than inspectors in Tallinn. However, municipal police officers of Riga and Geneva have significantly greater powers than inspectors in Tallinn to apply measures and use direct coercion. The powers of the municipal police officers of Berlin to interfere with the constitutional rights of persons have also become more severe after the tragic events of the Christmas market of 2016. For example, they have the right to use direct coercion upon the establishment of identity and to impose a fine of 1,000 euros if the person refuses to do so.

Based on the conducted study, it can be pointed out that MUPO inspectors have clear justifications and expectations for amending the law. It is important to supplement the list of state supervision measures to be permitted for local government law enforcement officials in the Law Enforcement Act, the Liquid Fuel Act, as well as the Public Transport Act. There is no need for such improvements under the Building Code and the Traffic Act. The measures of state supervision must be clearly defined. Otherwise, there will be confusion, and it may happen that problems disturbing the public are not given enough attention by the law enforcement agency or are not responded to at all. That, however, is a waste of resources, and it creates a feeling of impunity among members of society. MUPO inspectors expressed their readiness to contribute more frequently and more effectively to the protection of public order, and that also in a situation of a COVID crisis.

Pursuant to the Law Enforcement Act, city and rural municipality governments should have the right to apply the establishment of intoxication, checking, and taking persons to recover from intoxication when exercising supervision over the general requirements for behaviour in a public place. MUPO inspectors often encounter consumers of alcohol in public places (clause 55 (1) 5) and subsection (2) of the KorS establish

restrictions on alcohol consumption in public), who may also need to be taken to recover from intoxication. Taking a person to recover from intoxication is accompanied by a security check of the person and, in certain cases, also the right to examine them, as well as to perform acts to check and establish intoxication. However, the detention of a person pursuant to section 46 of the KorS is unjustified. The author assumes that the MUPO inspectors rely here more on the preconditions and necessity of detention in offence proceedings pursuant to section 44 of the VTMS.

Although MUPO officials receive calls over noise that causes significant disturbance to others, the Law Enforcement Act does not provide city and rural municipality governments the right to exercise supervision in this area. At the same time, they have the right to hold persons liable pursuant to section 262 of the KarS. A person can be punished once for one act, but repeated intervention may be necessary to eliminate the harmful effects of a disturbance, and state supervision measures are appropriate for that. Resolving such situations could also require, for example, the issue of a precept together with a penalty payment warning, which is why it is important to give city and rural municipality governments the competence to exercise supervision and the powers to apply more diverse specific measures than before, and it is necessary to amend sections 57¹ and 57² of the KorS.

The author proposes to amend the Law Enforcement Act as follows:

§ 57¹. Exercise of state supervision over general requirements for behaviour in public places

(1) 55 (1) and (2) of the KorS and subsections 56 (1), (2), and (4) of the KorS is exercised by the police;

(2) 55 (1) and (2) of the KorS and subsections 56 (1) and (4) of the KorS is exercised by city and rural municipality governments.

§ 57². Specific measures of state supervision

(1) In order to exercise the state supervision over this act, law enforcement bodies may apply the specific measures of state supervision provided for in sections 30, 31, 32, 34, 37, 38, 42, 44, 47, 48, 49, 50, 51, and 52 of this act based on and pursuant to the procedure provided for in this act.

(2) In addition to the special supervision measures specified in subsection (1) of this section, the Police and Border Guard Board may, in order to exercise state supervision, also apply the specific measures of supervision provided for in sections 33, 39, 40, 41, 45, and 46 of this act based on and pursuant to the procedure provided for in this act.

Pursuant to the Liquid Fuel Act, MUPO inspectors have the right to exercise state supervision over the compliance with the requirements related to the retail sale of alcoholic beverages and the restrictions on the consumption of alcoholic beverages on their own administrative territory (AS, § 49 (4)). This includes the right to check restrictions related to both trade in alcohol and alcohol consumption, and the supervisory competence of city and rural municipality governments is significantly greater than that of police officers, who are competent to supervise compliance with restrictions imposed only on minors. At present, MUPO inspectors have the right to apply questioning and document requirements, to issue an invitation, to establish identity, to inspect movables and premises, and to enter the premises. As under the Law Enforcement Act, there are no rights to perform acts against persons suspected of being intoxicated, but that may be necessary to deal with an intoxicated person responsible for public order who is either an adult or a minor.

City and rural municipality governments have the right to perform transactions for the purpose of monitoring compliance, but that is permitted only to ensure the prohibition on the consumption of alcoholic beverages by minors (see: AS, § 52¹ (2); § 49 (2); § 47 (2–4)). MUPO officials need to exercise supervision over compliance with the requirements of the retail sale of alcohol. For that purpose, especially through inspections of cafés and bars during the COVID crisis, there has also been a need to perform transactions for the purpose of monitoring compliance. At present, only the Tax and Customs Board has that right (AS, § 52¹ (1); § 49 (4)), but they have refused to cooperate and provide professional assistance.

The author proposes to amend the Liquid Fuel Act as follows:

§ 49¹. Specific measures of state supervision

(3¹) In addition to the special measures provided for in subsection (1) of this section, city and rural municipality governments may also apply for the exercise of state supervision the specific measures provided for in sections 37, 38, 42, 47 and 48 of the Law Enforcement Act based on and pursuant to the procedure provided for in the Law Enforcement Act.

§ 52¹. Transaction for purpose of monitoring compliance

(1) If the exercise of supervision over the compliance with the requirements for trade in alcohol is not possible or is significantly harder by means of the specific measures of state supervision provided for in section 49¹ of this act, but supervision is necessary to ascertain or counter a threat or eliminate a violation, the law enforcement body referred to in subsections 49 (2) and (4) may perform a transaction for the purpose of monitoring compliance as a specific measures of state supervision.

Pursuant to the Road Traffic Act, city and rural municipality governments have the supervisory competence over compliance with stopping and parking requirements in the territory of a local government unit and have the right to issue a precept, question and request documents, establish identity, establish a prohibition on stay, move a vehicle to a guarded storage facility if it violates parking requirements, and sell or destroy deposited movables (see: LS, § 92; § 193 (1); § 196¹ (2)). It remains unclear why the right to stop a vehicle, the right to detain and examine a person (again, it is apparently intended to be detention in offence proceedings), and the right to perform security checks are necessary to perform supervision with such content. Such measures, excluding the right to detain a person, could rather be needed when working under the Public Transport Act (ÜTS), which also regulates taxi service requirements, whereas MUPO officials have the right to stop vehicles under the ÜTS (see: ÜTS, § 81 (3)). The right to establish a prohibition on stay is also necessary.

The author proposes to amend the Public Transport Act as follows:

§ 81. Rights and obligations of authority exercising state supervision

(3) The authority exercising state supervision may, for the purpose of exercising the state supervision provided for in this act, apply specific measures of state supervision provided for in sections 30–32, 44, 45, 47, 48, 49, 50, and 52 of the Law Enforcement Act based on and pursuant to the procedure provided for in the Law Enforcement Act.

The results of a study conducted in Slovakia in 2021 show that the work of municipal police officers has a high level of risk (Soltes *et al.*, 2001, pp. 16–19). MUPO officials pointed out actual situations where they had been physically attacked in the performance of their duties; i.e., where their health and life have been in real danger. Although city and rural municipality law enforcement officials, including MUPO officials, have the general, public right of self-defence provided for in the Penal Code, the list of means of self-defence and the determination of the right to use them at the level of law would ensure better legal certainty. It is especially useful for officials, but would also inform the public about what can be expected from city and rural municipality law enforcement officials.

MUPO inspectors are able and willing to use the following means of direct coercion: physical force; cut-and-thrust and gas weapons. The Local Government Organisation Act should regulate the right of self-defence of law enforcement officials performing their functions.

Willingness to act in stressful situations can be trained (Soltes *et al.*, 2001, pp. 16–19). The granting of the right to use direct coercion must be preceded by thorough training. In Germany, Switzerland, and Latvia, the training of municipal police officers is similar in content and scope to that of police officers. If it is decided to grant city and rural municipality law enforcement officials (including MUPO inspectors) the right to apply direct coercion, it is important to regulate compulsory training at the level of the law, and, in Estonia, the KOKS should be amended for that purpose.

The application of state supervision measures and the use of direct coercion against a person infringe on their fundamental rights. Therefore, the powers to implement measures and force must be precisely and clearly

stated in the law. This is not only a universally recognised principle of the constitution (§ 11), but also of international law (Kask, 2004, p. 468). The application of measures and direct coercion is connected with the principles of discretion. The first step is to consider whether to intervene at all. If it is necessary to intervene in order to achieve the objective, then the measures and means that infringe on persons and the public the least must be chosen (LEA, 2011, § 7-10). Based on the study conducted, it can be confirmed that MUPO officials need more rights than before in order to perform their duties in a high-quality manner, which does not mean, however, their uncontrollable arbitrariness in infringing on the fundamental rights of persons, which has been assumed unreasonably.

As of 1 June 2021, the population of Estonia is 1,330,068 people (Statistics Estonia, 2021). A third of them – i.e., 444,556 people – reside in Tallinn (Tallinn, 2021); therefore, significantly greater efforts should be made to contribute to their security. Since the Old Town of Tallinn continues to be attractive among tourists as well, it is reasonable that, in addition to the state police, the law enforcement officials of Tallinn Municipal Police Department also help to ensure public order.

The Local Government Organisation Act regulates the right (not the obligation) to form a law enforcement unit. As local governments are independent, autonomous, and territorial administrative units, not all Estonian local governments can be obliged to form such a unit, but Tallinn City Council has reasonably decided to establish Municipal Police Department within the city government. MUPO inspectors are often the first to arrive at the scene of a disturbance, which is why it is logical to deal with resolving the incident on their own from the beginning to the end, rather than admitting that the offender is walking away or waiting for the arrival of the state police, who have the competencies.

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