



european network against racism

ENAR Shadow Report 2008

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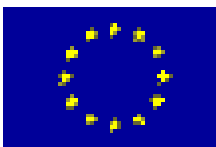
Racism in Estonia

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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I. Executive summary

2008 can be considered to be an extremely important year for Estonia from a number of perspectives related to the promotion of equal treatment and tolerance in society. Most of the developments were indeed positive, even though they were mainly brought by the requirements of the European Union rather than by the state's own good will.

Certain issues, however, underlined the gap between the coexisting Estonian and non-Estonian societies, and the unwillingness of the state to take into consideration the interests and beliefs of ethnic non-Estonians. It is extremely sad that some issues such as the rapid closing of Russian-speaking schools, the intolerance when talking about the media and cases of movie interpretation when negative heroes are speaking with Russian accent for example, and the growth of inadequacy regarding the linguistic issues and language proficiency for employment in particular have occurred or taken a new, often aggressive dimension.

Estonia still lacks high scale research with regards to various aspects of life of ethnic minorities and new-immigrants as well as religious-minorities.

On a positive note, racial crime and racial profiling continue to not be a huge issue for the country. However it is worth highlighting again that Estonian legislators have done everything possible to diminish such cases simply by adopting restrictive legislation. Another alarming case is that the police are not very active in researching the existence of racial aspects in acts of hooliganism or physical violence even when such suspicions can be made.

Estonia has finally adopted an Equal Treatment Act which provides for a ban on discrimination based on race and ethnicity in employment, education, health and social care, goods and service provision (and religious discrimination in employment). By doing this it has also fulfilled the transposition of the EU directives 200/43 and 2000/78. Estonia also received the second equality body to deal with discrimination of racial, ethnic and religious minorities.

The new Integration Strategy 2008 – 2013 has been adopted and despite certain regrets with regards to its substance and focus it should be considered as a positive development.

Estonian society is divided into two communities separated on linguistic grounds. The main issues regarding unequal treatment (in housing, access to health services, etc.), normally concern linguistic problems.

The attitudes of society in general, both for ethnic Estonians and non-Estonians, are rather intolerant especially concerning visible minorities.

The present report also outlines a series of recommendations towards improving the situation of racism in Estonia. In this regard, the state must:

- Develop and implement national action plans against racism
- Provide sufficient funds for the programmes and projects aiming at combating racism and intolerance and involve civil society as partners
- Start public awareness campaigns targeted at ordinary people, employers, policemen and other key actors and aiming to educate about equal treatment and instruments of protection
- Initiate research that would provide data about discrimination in various spheres of public life
- Develop separate measures aiming to integrate new-immigrants and taking into consideration the Common Basic Principles with active participation of the groups concerned.
- Pay special attention, provide research and guarantee funds for the needs of the Roma community
- Use the media as a powerful instrument to shape public opinion and raise awareness.

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III. Introduction

In February 2008 in his interview to the BBC the President of the Republic of Estonia Mr. Toomas Hendrik Ilves, stated that he would not speak Russian with his people, because if he did it would mean that he would accept and forget the severe 50 year Soviet occupation. He also added that he did not want to discuss the issue as it had already been solved¹.

Six months later while opening the autumn session in Parliament he called upon parliamentarians to become more involved with integration issues².

Such controversial statements are very illustrative of the situation in Estonia and the attitudes towards non-Estonians, and Russian-speakers in particular, that constitute almost 1/3 of the Estonian population, the majority whose mother tongue is Russian. This also describes the real sense of “integration” that is being enforced in Estonian society.

Estonia nowadays is a multiethnic country with a rather low number of (new) recent –immigrants and asylum seekers and an even lower number of visible minorities. The majority of ethnic minorities residing in Estonia have been present since the Soviet times, they are well settled, and those who have Estonian citizenship theoretically have the same rights as ethnic Estonians. However in mid 2009 quite a number of Estonian permanent residents - 7,6% – still did not have citizenship of any country and 8.4% were citizens of foreign states (mostly Russia).³

It is possible to say that Estonian society is rather intolerant towards newcomers, especially visible minorities, including Muslims. This applies equally to both nationals and old immigrants (predominantly Russian-speakers). However, one cannot say that direct racist attacks are often taking place in Estonia. Despite the fact that according to official data no racially motivated attacks have been registered in 2008 such cases have taken place but are not always registered or classified as such.

During the year 2008 the two most important legal and political developments were:

- The adoption of a new Integration strategy 2008 – 2013 that continues the State Integration Programme 2000 – 2007
- The adoption of the Equal Treatment Act that ensures full transposition of EU Directives 2000/43/EC and 2000/78/EC

A lot of attention of the majority population has also been paid to the introduction of the new system of language proficiency categories which replaces the old

¹ Delfi, 25.02.2008 www.delfi.ee

² Delfi, 08.09.2008 www.delfi.ee

³ Ministry of Foreign Affairs, http://www.vm.ee/estonia/kat_399/4518.html, accessed 29.05.2009

system. As a result many employers requested their employees to re-pass the proficiency exam.

The present report aims to highlight the problems of racism and discrimination in Estonia as it affects various sectors, as well as to assess the attitudes of the authorities towards the problem. It covers the period from January to December 2008. Due to a lack of comprehensive data, the author has in some cases reverted to using data from earlier studies, however only when there is no reason to assume that situation has changed drastically. Certain developments that were initiated in 2008 and finalized in 2009 are to be mentioned, but only if they occupied an important place in social life and if they have been almost finished by the end of 2008. The author uses data provided in the media and in the database of the Legal Information Centre for Human Rights (LICHR - leading pro-minority NGO), as there is generally a lack of data concerning officially registered cases. LICHR runs a project which includes a hotline for the victims of discrimination and also provides legal advice on equal treatment and migration issues.

IV. Communities vulnerable to racism

Estonia is a rather small European country whose population is only of 1 364 233 persons⁴. It recently regained its independence after 50 years of Soviet dominance. On May 1, 2004 it complied with the EU accession criteria and successfully joined the European Union.

The population of Estonia is ethnically diverse. Ethnic Estonians constituted in January 2008 68.7% of the total population. Whereas there are more than 100 ethnic minority groups residing on the territory of Estonia, most of them are rather small in numbers. The biggest minority group are Russians – 25.6% of the total population, the second biggest group are Ukrainians – 2.1% followed by Byelorussians - 1.2% and Finns – 0.8%⁵.

Whereas ethnic non-Estonians reside in all regions, there are some areas where they constitute a majority. E.g. In Ida-Viru (the North-East) county non-Estonians make up 4/5 of the total population.

The only State (official) language in Estonia is Estonian.

According to the data available on June 2, 2009 the number of Estonian citizens residing in Estonia is 1 145 792 persons. 114,987 persons hold the citizenship of other states, majority of them are citizens of the Russian Federation – 95 193 and Ukraine – 5 104 and 2 826 – of Finland⁶.

Estonia is one of few European countries that introduced the concept of mass statelessness. 103 454 persons or 7.6% of its total population do not hold citizenship of any country, they are stateless or persons with undefined citizenship⁷. The majority of these people are former citizens of the Soviet Union who, after Estonia regained its independence were not recognised as its citizens and who, for some reasons did not want or could not receive Estonian citizenship by naturalization. At least half of all stateless residents were born on the territory of Estonia.

There are reasons to assume that ethnic affiliation alone does not constitute a major ground of racism in Estonia. It would be more accurate to say that the main problem is a series of issues: Estonian language proficiency, citizenship and ethnic background. The reporting year also brought some cases of racism because of the political beliefs (so called cases of “Georgy ribbons”, or ribbons that are used by Russians to commemorate the victims of WWII).

⁴ Ministry of Foreign Affairs, Data as of June 2, 2009 http://www.vm.ee/estonia/pea_172/kat_399/4518.html, accessed 29.05.2009

⁵ Ministry of Foreign Affairs, http://www.vm.ee/estonia/kat_399/pea_172/4305.html, accessed 29.05.2009

⁶ Minister of Interior, Population register, http://www.vm.ee/estonia/kat_399/pea_172/4305.html, accessed 29.05.2009

⁷ Minister of Interior, Population register, http://www.vm.ee/estonia/kat_399/pea_172/4305.html, accessed 29.05.2009

In 2008 a new Integration Monitoring took place. It revealed several interesting findings with regards to interethnic relations and equal treatment in Estonia.

Another category vulnerable to racism are **new (or recent) immigrants** or those who settled in Estonia after 1991, including both EU citizens and third country nationals who make up approximately 3% of all foreigners⁸.

Thus this group is rather small in numbers. The majority of immigrants are coming from the former republics of the Soviet Union and only few from the EU member states and other countries. In 2008 the total number of 3 868 persons have received temporary residence permits in Estonia where the majority arrived in the country for family reunification matters (1380), on the basis of a foreign contract (1 137), employment (911), study (353), business (53) and appropriate legal income (31)⁹.

Visible immigrants, including those belonging to visible religious groups are not high in numbers. Unfortunately there is no statistical data available with regards to the exact size of this group. According to the updates received from the NGO representing visible immigrants in Estonia the attitudes of the society towards such people continue to be rather intolerant. The main reasons for such behaviour are stereotypes spread in society and deep prejudices especially with regards to Muslims¹⁰.

The number of **asylum seekers and refugees** in Estonia is also very small. According to the data available from the Department of Citizenship and Migration in 2008 they have received 14 applications for asylum. Four persons have been granted refugee status and unlike previous years no subsidiary protection was allocated¹¹. There is no separate statistics for the country of origin of the applicants in 2008. However if one looks at the general data available for 1997 – 2009 (1quarter) most of the asylum seekers come from Iraq (22), Russia 21, Turkey (17), Belarus (11), Georgia (10), Pakistan and Afghanistan (8), Nigeria (6)¹².

The number of **Roma** in Estonia is also very small. According to the latest available data by the Population Census 2000 there are only 500 persons identifying themselves as Roma¹³. According to some other sources including Roma activists the number of Roma in Estonia is 1 000 – 1 500 persons¹⁴. This low number causes a problem by itself as often officials claim that as this group is so small in numbers they do not have problems and no special programmes

⁸ Citizenship and Migration Board, Data taken for the year 2007, www.mig.ee, accessed 30.06.2009

⁹ Citizenship and Migration Board, <http://www.mig.ee/index.php/mg/est/statistika>, accessed 30.06.2009

¹⁰ Communication with the Human Rights NGO, oral and written, January-February 2009.

¹¹ Citizenship and Migration Board, <http://www.mig.ee/index.php/mg/est/statistika>, accessed 30.06.2009

¹² Ibid.

¹³ Estonian Statistics, www.stat.ee, accessed 28.06.2009

¹⁴ ECRI report, Estonia 2005

are needed¹⁵. Estonia did not adopt any special state programme for Roma integration, neither has it any special fund allocated for Roma NGOs or community. However according to Roma activists the problems do exist, Roma are being treated unequally and moreover it is extremely difficult for them to get public and official attention¹⁶.

Jews - Anti-Semitism expressed verbally by radicals is not unusual in the public sphere (Internet and other Media). There are, however, no studies that would document the attitudes of society towards this ethnic group as well as no reported cases of anti-Semitism during the year 2008. The majority of Estonian Jews speak Russian or Estonian and have Estonian citizenship. According to the last Population Census in 2000 the number of Jews in Estonia is 2 145 persons¹⁷.

Multiple discrimination

No special studies were carried out in 2008 that would look into multiple discrimination. During the year 2007 two studies regarding the situation of minority women, "Roma women within their community" by M. Tali, K. Kollom, M-L. Velberg, and Vähemusrahvuste naiste olukord Eesti tööturul, Sten Anspal, Epp Kallaste, (Situation of minority women in the labour market) were carried out. They have proved the estimations that minority women experience unequal treatment both because of their gender and minority background.

There are also certain reasons to assume that elderly of minority background experience double discrimination, especially in access to employment and remuneration¹⁸.

¹⁵ Oral communication with the leader of the North-Estonian Roma Union NGO in November 2008

¹⁶ Oral communication with the leader of the North-Estonian Roma Union NGO in November 2008

¹⁷ Statistics Estonia, www.stat.ee accessed 30.06.2009

¹⁸ Kaseoru, Kairi and Trumm, Avo, Eesti- ja venekeelse elanikkonna aineeline olukord ja eluga rahulolu, 2008

V. Manifestations of racism and religious discrimination

V.i Employment

There is a lack of data and information (official or unofficial) on discrimination on the grounds of race and religion in the sphere of employment. During the year 2008 the Employment Disputes Commission (a quasi-judicial body) reported not to have received any complaints regarding unequal treatment on the grounds of ethnic background, race or religion¹⁹.

The Chancellor of Justice, which is the national equality in 2008 reported to have received 1 application concerning request to start special conciliation procedure with regards to unequal treatment based on race or ethnic origin (no formal decision was made²⁰).

However the situation witnessed by NGOs and the Media is a bit different. The majority of cases that have become known relate to linguistic discrimination, i.e. language requirements, disproportionally of such requirements, misunderstandings with regards to new language proficiency categories, mother tongue of job seekers, different pay for equal work, and harassment²¹.

Moreover it should be underlined that similarly to the previous year in 2008 a number of cases of discrimination on the grounds of political beliefs, experienced predominantly by non-Estonians, and were registered.

In general the level of unemployment among non-Estonians continues to be twice as high as among Estonians²². In June 2008 the Government initiated the new Employment Contract Act that would simplify the procedure of sacking people (Adopted in December 2008). This gave rise to serious concern that even more non-Estonians would become unemployed in cases where employers would have to choose between firing an Estonian or non-Estonian.

In addition to this, the Estonian labour market continues to be ethnically divided (segregated).

For example, many non-Estonians are forced to work in unstable positions and for less remuneration. Interestingly recent research revealed such a tendency that the level of income among Estonians and non-Estonians differs also with regards to the level of education. If among those who have basic or secondary education the difference of income is insignificant, however among those with higher education, Estonians tend to earn significantly more. Such a fact can also probably be explained by another finding of the same research which proved that

¹⁹ Written Communication, Labour Inspectorate; Written communication no. 1-05/4213-1 of 18 August 2008 and another communication with no number but covering the period 01.07-31.12.2008

²⁰ Written communication, Chancellor of Justice, 05.03.2009 nr. 5-3/0900838

²¹ Database of the Legal Information Centre for Human Rights

²² Kaseoru, Kairi and Trumm, Avo, Eesti- ja venekeelse elanikkonna aineolukord ja eluga rahulolu, 2008

Estonians are more likely to become top specialists and managers as opposed to non-Estonians²³.

State policies also often contribute to a worsening of the situation, so that in addition to racism and discrimination on an individual level, minorities face various structural barriers that inhibit their access to the labour market.

The Language Inspectorate continued its practice of check ups of various groups of employees whose mother tongue is not Estonian. In 2008 they have focused again at school and kinder-garden teachers and personnel, taxi drivers and personnel within prisons and police officers. Special attention has been paid to shop assistants employed by Maxima Eesti OU²⁴, a chain of food stores famous for their low prices and also their low salaries attractive mainly for ethnic non-Estonians.

It is also interesting to note that a lot of attention with regards to language proficiency was paid to those living and working in Ida-Viru county, i.e. area where the non-Estonian minority constitute a vast majority.

The new developments with regards to language proficiency categories, that will be described later, also influenced the situation with regards to racism in Estonia.

Case1:

The Director of the prison had sent a notification to all his employees that have old type categories of language proficiency certificate that they have to re-prove their language proficiency by taking a new exam. In case they will not do they will be sacked. The notification also contained the deadline by which new certificates should be handled.

According to the information received from the authorities the new system of language proficiency does not require taking any new exams as all old type certificates and categories are still valid. Moreover, the deadline set in the notification was unrealistic to fulfil and: first of all, according to the scheme the exam takes place only once in 3 months; and secondly during summer (the case took place in May) there were no exams. The first exam should take place only in autumn and the employer provided only one month to prove the language proficiency²⁵.

Case2:

The Ministry of Culture launched a call for applications for the position of consultant to develop a construction project for a new Estonian National Museum. One of the set conditions was that the person who would be fulfilling this task should have Estonian language as a mother tongue. The Minister herself said that the tender would be open all around the EU, however the head of the foundation responsible for all organizational matters said that such a requirement was introduced in order to support the local construction company,

²³ Kaseoru, Kairi and Trumm, Avo, Eesti- ja venekeelse elanikkonna ainline olukord ja eluga rahulolu, 2008

²⁴ Lanugage Inspectorate, <http://www.keeleinsp.ee/?menu=30&news=593>, accessed 07.07.2009

²⁵ LICHR database 2008

moreover the responsibility of the person employed would also involve communication with various extremely important persons and therefore his/her language should be perfect²⁶.

NGO good practice example

The Legal Information Centre for Human Rights manages the hotline for victims of discrimination and provides legal aid to those who wish to take action against unequal treatment. The hotline also serves to raise awareness with regards to what is and what is not racism and what remedies of protection exist.

V.ii Housing

There is a general lack of publicly available evidence on racism and discrimination in the housing sector in Estonia in 2008. State bodies, including the Department of Statistics of Estonia, do not collect data on housing disaggregated by ethnicity, race, religion, native language, legal status or nationality.

Throughout 2008 there were no complaints regarding access to housing received neither by state bodies nor by the Legal Information Centre for Human Rights that provides hotline counseling and legal aid on the grounds of unequal treatment.

Mortgages for purchasing residential property are widely available however only for those with stable and very high incomes. While there are no special provisions that would limit availability of such mortgages for minorities, the possibilities to receive such loans are rather low due to the level of income.

Some banks do not provide mortgages to foreigners with temporary resident permits. As already highlighted the level of income among Estonians is higher than among non-Estonians and the rate of unemployment of the latter is much higher than among their Estonian neighbours.

V.iii Education

It is extremely difficult to judge the situation with regards to equal treatment in access to education. There exists a clear lack of research with regards to this area both by authorities and civil society. It is also rather difficult to receive any evidence or complaint, especially if it applies to higher education as students are extremely vulnerable to victimisation and are afraid to speak out until graduation. The majority of former students however later report about problems they had to come up with during the education period. It is especially true when talking about publicly funded universities or colleges.

²⁶ Competition only for Estonians, *Molodjezh Estonii*, 10.07.2008,

For example in 2008 the media reported a case of a candidate who, during the entrance exam for the Department of Sport at the University of Tallinn, was asked a question on political events of 2007, namely the April events or riots when the non-Estonian population protested actively against demolishing the monument to the Soviet soldier that fought against fascism and the applicants' attitudes towards those events. It was doubtful that such a question could be of any relevance to the subject chosen. The representatives of the University could comment such practice²⁷.

In general during the Integration monitoring 2008 the following results have been identified. Majority of non-Estonians believe that Estonians have more and better possibilities for higher education in Estonia, 60% of Estonians believe that there is no difference²⁸.

Currently, publicly funded education in Russian is available in nursery schools, primary and basic schools. Higher and professional education is available with certain restrictions and conditions. Some schools and universities also provide education in English and even Finnish. Private education institutions are free to choose the language of instruction, the majority use Estonian, Russian, or English.

In 2007 the process of transition of the Russian upper-secondary school (grades 10 – 12) into predominantly (60%) Estonian language of began. In 2008 the process was continued and in addition to one subject taught in Estonian as of 2007 (Estonian literature) in 2008 one other subject was transferred into Estonian as the language of instruction (music or civics)²⁹. 60% requirement should be fulfilled by 2011.

It must be highlighted that the reform of the minority education system continues to be rather unpopular among the non-Estonian population³⁰.

From autumn 2009 all the nursery schools should start Estonian language classes for children starting from the age of three³¹. The Minister of Education Mr. Tonis Lukas, who pushed for this quite strongly, also commented that this should have been done 15 years ago. He added that if he had been responsible for the whole process from the very beginning he would have transferred the whole education system into Estonian language of instruction long ago and very fast³².

The second issue of concern regards the closing down of secondary schools and in particular those with the Russian language of instruction. The Ministry of Education had confirmed that the number of Russian speaking schools would

²⁷ Proverka na bronzovost, Den za dnem, 29.08.2008

²⁸ Integratsiooniuring, 2008

²⁹ Ministry of Education and Sciences, www.hm.ee, accessed 07.07.2009

³⁰ Integratsiooniuring, 2008

³¹ RTI, 05.05.2008, 18, 124

³² <http://www.compromat.ee/?p=1603#more-1603>

diminish due to the lack of students and the fall of the birthrate. At the same time the statistics show that the number of child births in Russian-speaking families is not diminishing and has even been growing since 2004. Therefore in a couple of years there will be a problem with the lack of Russian speaking schools³³. A journalist alleged that the Ministry of Education had already developed a strategic plan according to which, out of currently 63 existing secondary schools with the Russian language of instruction within the nearest future would diminish to only 10 (the number of Estonian schools will also drop)³⁴. However, it is yet not understandable what the aim of the Minister is. Is it to abolish Russian-speaking schools as such or deliberately provide fewer possibilities for non-Estonians to finish upper-secondary schools and therefore continue with higher education? According to the Minister of Education the level of school education should improve as well and in order to fulfill this task the competition among schools should be available. If schools fight for survival they will significantly improve their level of education. At the same time the former Minister of Education Ms. Mailis Reps admits that one of the reasons of such a reform could be to prevent Russian-speaking youth from continuing their education at universities and becoming skilled professionals with high education to send them to professional schools to become blue-collar workers³⁵.

In some areas access to education in Russian is becoming simply impossible, this happens predominantly in some remote areas where there are not so many pupils. As an example there is a case of the Kehra Gymnasium where there exists only one mixed school (classes in Russian and in Estonian) where there are classes in Estonian and Russian. It was decided by the school that they would use the system of language emersion starting from the first year of school, for the majority of the children it is extremely difficult to start education in a not a native language which they do not understand. Unfortunately they have no other option as there is simply no other school in the area, the only solution being to send the children to a Russian speaking school in Tallinn which is about 30 kilometers away³⁶.

Another serious concern of such innovations applies to the fact that due to the closing down of the Russian-speaking schools more and more non-Estonian teachers will become unemployed or will have to find another occupation. It is important to bare in mind that the level of unemployment among non-Estonians is already double the level of unemployment among Estonians.

Despite the fact that authorities have expressed their opinion numerous times with regards to the purpose of partial transition of Russian-speaking schools to the Estonian language of instruction, the level of Estonian language training in some schools continues to be very weak. In order to overcome such problems

³³ Close down, without any consideration, *Daily Vesti*, 25.07.2008

³⁴ Close down, without any consideration, *Daily Vesti*, 25.07.2008,

³⁵ Close down, without any consideration, *Daily Vesti*, 25.07.2008,

³⁶ Ihtanders from Kehra School, Conflict at Kehra School because of the language immersion programme, *Den za Dnem*, 27.06.2008,

and provide children with better opportunities for future life, some parents send their children directly to Estonian schools. Interestingly here teachers use their own way of integrating such children into the school process. The Legal Information Centre for Human Rights received several complaints from parents that regarded the fact that their children were prohibited to use Russian language for communication between children speaking the same language even during the break. The teachers also used to write complaints to the parents and mark such cases as improper behaviour³⁷. This fact was also concerned by the Chancellor of Justice (equality body and ombudsman)³⁸.

Case1:

Kivioli 1-st secondary school has Estonian as the language of instruction. Those pupils that speak Russian during the breaks are being prohibited to do so. Even brothers have to communicate with each other in Estonian. The teachers motivate such prohibition by the fact that non-Estonians should use any possibility to practice and master their Estonian and that it will help them further in life.

One of the pupils went to school by car with a so called “Georgi ribbon”, symbol to commemorate victims in WWII that is used by Russians around May 9 – the Victory day, he was immediately stopped near the school and he was told to take the ribbon off because Estonians might have other associations with this war. Officially this ribbon is not prohibited in Estonia. At the same time pupils in these schools are required to read a book by Jaan Tansoo, “Hanejaht” where very bad Russian language is used (use of such language is considered to be extremely impolite). The Director of the school however refused that such problems might take place in her school. Later however she acknowledged that this is a policy of the school, that pupils have to communicate only in Estonian for their own sake and with regards to the book recommended, she could not see anything wrong with that as it is an Estonian classic, moreover children will hear those words in pubs and streets anyway³⁹.

Another case worth mentioning in this report is the fact that many Estonian nursery schools have ruled that they will accept children from non-Estonian families only if they have free places or will not accept them at all in order. The Directors of such institutions were acting in accordance with the Rulings of the Local Authorities which are clearly in breach of existent Estonian legislation⁴⁰.

Case: Paldiski Kinder-garden

A Russian woman from Paldiski (small predominantly Russian-speaking town) wanted her child to attend the Estonian-language nursery school. She was then very much surprised that the director refused her the place, motivating her decision by the fact that the child is from a Russian-speaking family and they can

³⁷ Database of the Legal Information Centre for Human Rights, year 2008

³⁸ Chancellor of Justice, <http://www.oiguskantsler.ee/index.php?newsID=252&menuID=39>, accessed 07.09.2009

³⁹ Database of the Legal Information Centre for Human Rights, year 2008

⁴⁰ Database of the Legal Information Centre for Human Rights, year 2008

accept her only in case there will be free places left. Importantly, the director was acting on the basis of a valid act of municipal authorities. This act was later amended after the intervention of the Chancellor of Justice (equality body)⁴¹.

It is interesting that such cases occur when the state is spending millions of kronas for integration purposes.

At the same time during the Integration Monitoring study it was revealed that 1/6 of Estonians would prefer that non-Estonian children would go to separate kinder-gardens, and the non-Estonians number was almost twice as high.

1/4 of Estonian respondents would prefer that there are a limited number of non-Estonians in Estonian kinder-gardens. Such a model seemed to be appropriate only for 1/10 of non-Estonians⁴².

V.iv Health

Similarly to previous years there is rather little to say with regards to racism in access to healthcare facilities. Such data is not collected specifically by any of the state or municipal bodies.

The healthcare system in Estonia is available to all those who have health insurance or who are able to pay for the services regardless of their ethnical background⁵⁴. There are no reasons or evidence to assume that unequal treatment is being exercised.

One of the main problems that regard to equal access of healthcare facilities for Estonians and non-Estonians could be the language of communication and information. Since the only state language is Estonian the doctors and personnel are only required to speak Estonian and proficiency or even usability of other languages including Russian are upon their own wish or good will. Translation services regulated by the state do not exist in this sphere and in cases where such services are needed, the patient has to cover the costs him(her)self. There is increased concern regarding young specialists, who do not have any knowledge of the Russian language due to years of its unpopularity as a choice subject at schools, and often have a bad command of English. With regards to the older generation of medical personnel their proficiency in Russian is higher; however the level of English or of any other foreign language is as a rule extremely low.

Interestingly the problems with the use of language, other than Estonian by the medical personnel, occur also with regards to communication between non-Estonian patients and non-Estonian service providers, especially to secondary medical personnel. The author of the report believes that it often happens because of the activities of the Language Inspectorate who organises checks

⁴¹ Database of the Legal Information Centre for Human Rights, 2008

⁴² Integratsiooniuring 2008

with regards to the proficiency of the Estonian language among those employed in the sphere of medical services.

Another issue with regards to equal access to health continues to be the language of annotations to medication. According to the existent regulations the annotation should be provided only in Estonian language and its translation into other languages depends on the good will of the provider. It means that a huge amount of the population permanently residing in Estonia can be in serious danger of damaging their health if they do not understand the precautions and instructions given in Estonian. This issue in fact has been discussed numerous times also during previous years by human rights activists and the media. In 2008 the Tallinn city authorities started to pay translation of such annotations to be freely distributed in the pharmacies of the capital city.

V.v Policing and racial profiling

Policing and racial profiling is not a serious problem in Estonia. There is no data with regards to the real situation and no civil organisation is focusing on such issues. However, cases of persons who experience racial profiling may exist.

The Estonian majority members continue to be rather intolerant towards minorities (and in case of visible minorities it is true both for the Estonians and Russian-speakers). The society continues to suffer from stereotypes with regards to visible minorities and especially religious ones.

A particular issue of concern is the stereotype that ethnic minorities are collectively responsible' for the majority of crimes and disorders in Estonia.

Members of the Muslim community (the new-Muslim = new-immigrants) also report being under special supervision from the special services as soon as they arrive in the country⁴³. Moreover in cases where there is a conflict with other persons or authorities Muslims as a rule are immediately treated as guilty without any prior investigation.

Case 1: A Muslim vs. his wife and police

A well educated Muslim of north-African origin N. is divorcing his wife and trying to gain visitation rights to see his daughter who is under 18. They have a conflict in public and his mother-in-law starts screaming that he is beating her up. This takes place in a busy parking lot. N. calls a police officer to sort the situation out and surprisingly upon arrival the police do not listen to him, but take him to the police car and drive him to the police station where he stays over night. Despite the fact that there were witnesses the police only used his mother-in-law as the main witness. The criminal case is now being investigated⁴⁴.

⁴³ Oral Communication with the representative of a human rights NGO representing visible minorities.

⁴⁴ Oral Communication with the representative of a human rights NGO representing visible minorities, Database of the Legal Information Centre for Human Rights, 2008

At the same time visible minorities report a lack of willingness of the police to initiate cases of racially motivated crimes, especially offence and sometimes violence, but also report on prejudice towards people of other colour or religion and their lack of desire to search for justice in cases when both new-immigrants and locals are involved⁴⁵.

V.vi Racist violence and crime

One cannot say if racially motivated violence and crime is very common in Estonia. During the year 2008 the Ministry of Justice did not report any cases undertaken under article 151 of the Penal code⁴⁶. However, this can be explained by the fact that the legislation prohibiting racist violence and incitement to public hatred can be considered as a criminal case only in cases with serious damage to health or property or where death occurred as a result⁴⁷.

During the year 2008 the Legal Information Centre for Human Rights received several complaints from the public that regarded the racist violence that took place predominantly in the university city of Tartu. In most of the cases the victims were the so called visible minorities, mostly of African origin who were attacked by groups of skinheads. In two cases the supposed victims informed that they turned to the police, however they could not recall any further action followed⁴⁸. Some times Russian and Estonian-speakers can also be victims of attacks of other community members.

Case 1: Physical Violence Among Youngsters

14-year-old Martin, who speaks good Estonian, went to the play ground of an Estonian school in Tallinn. He was hoping to play football with his friends. Unfortunately there was nobody he knew on the ground. After some time he was approached by several boys speaking Estonian and aged 9 -10. They offered him to play football and the boy agreed. They were communicating in Estonian, however the boys asked him if he was Russian and he said that he was. At the same moment the older boy took Martin's ball, threw it to the ground, told him to bring it back and commented that Russians are used as servants. Martin refused and the boy started to call for help, claiming that they were being attacked. At the same time older boys came out and hit Martin's nose without hesitation. After that the "winners" disappeared. The boy, bleeding, entered the school and asked school security for help but was refused.

The doctors at the hospital diagnosed him with a "nose bone fracture".

Martin and his parents went to the school in front of which it all happened several times, the school principal promised to sort it out. After some time the school administration however denied that anyone approached them with such

⁴⁵ Interview with the member of the Muslim community, April 2008

⁴⁶ Written communication, Ministry of Justice 10.02.2009, nr. 7.1-5/1862

⁴⁷ Art 151, Penal Code, RT I, 2007, 31, 187

⁴⁸ Database of the Legal Information Centre for Human Rights

complaints. Moreover they refused to participate in any investigation. The police did find suspects and started the case under article 121 of the Penal code which applies to cases of physical violence (no reference to racial violence), however the probability that anyone would be punished is low as the abusers are too young⁴⁹.

A case presented by the Organization for Security and Co-operation in Europe (OSCE) involved a dark-skinned student who was attacked and the student union who acknowledged that such cases of violence were taking place. The police however denied it⁵⁰.

The investigation with regards to the murder of a young man during the April events of 2007 continued in 2008. It was initially suspected that he was stabbed by a skinhead and one of them was arrested but later released because of lack of evidence⁵¹.

V.vii Access to goods and services in the public and private sector

There exists no official research or data regarding unequal treatment to access to goods and services as well as no legal provisions regulating this area or any specific legislation that would possibly tackle this issue.

No new sociological studies addressing equal access to goods and services were carried out in 2008. Sociological studies conducted in previous years, however, identified some tensions in the area between ethnic Estonians and non-Estonians⁵². The author of this report does not think that the situation changed significantly since then.

The Chancellor of Justice did not report to receive any complaints with regards to unequal treatment in access to goods and services⁵³.

Media and NGOs however have reported some cases. Most of them apply to the use of language by shop assistants or service providers. Or in some cases refusal of the clients from goods or services because of the ethnic origin of the provider or his/her "bad" command of the state language.

Case 1: Refusal to buy goods because of salesperson's origin

An Estonian-speaking man wanted to buy 1kg of cottage cheese at the *Balti jaam* market from a Russian-speaking saleswoman. When the woman weighed it for him, they found out that there was 100 g more cottage cheese on the scales than necessary and she asked the client if it suited him. The man was in a hurry and

⁴⁹ How Martin was left with the nose. Broken nose, *MK-Estonii*, 21.05.2008

⁵⁰ In Hate crimes in OSCE region – incidents and responses. Annual report 2007, 2008 Estonian Neo-Nazi Attack French Student", *Bigotry Monitor*, Vol. 7, No. 36, 21 September 2007, <<http://www.fsmonitor.com/stories/092107BM.shtml>

⁵¹ <http://news.ntv.ru/109220/>

⁵² Hallik, K., Poleshchuk, V., Saar, A., Semjonov, A., *Estonia: Interethnic Relations and the Issue of Discrimination in Tallinn*, Tallinn, 2006; ISBN 9985-9542-3-8

⁵³ Written Communication with the Chancellor of Justice, 05.03.2009 nr. 5-3/0900838

became nervous. “I wanted 1 kg, not 1,1 kg! You don’t understand Estonian”, he yelled. The woman and the client had a row, after which the man made a complaint to the Language Inspectorate about the saleswoman’s allegedly inadequate Estonian language skills. It is important to point out that the dialogue between them was in Estonian and that the woman understands it very well. The saleswoman had been working at the market for 15 years and among her regular customers were many Estonians. As no one had ever made complaints about her language skills, the woman never tried to pass the Estonian language examination.

After a few days, a representative of the Language Inspectorate ordered the woman’s employer to ensure the service in Estonian language at the sales point within one month - an unrealistic deadline for passing the examination. Moreover, while talking privately to the employer, the representative demanded the removal of the saleswoman from her work place.

According to the Consumer Protection Act, a customer has the right to receive information in Estonian language from a shop assistant. In this case, however, it cannot be said that information was not given in Estonian, as the conversation between the man and the saleswoman took place in Estonian language. Moreover, it is clear that in this case misunderstanding was provoked by the circumstances different from those related to the language skills. According to the Estonian Language Act, an employee must be able to understand and shall use Estonian at the level which is necessary to perform his or her service or employment duties. In the present case, the saleswoman’s language skills certainly correspond to the necessary level and the requirement of a higher level language skills represents discrimination on the grounds of language (indirectly on ethnic grounds), which constitutes a violation of the Article 12 of the Estonian Constitution⁵⁴.

V.viii Media, including the internet

Media plays an important role in shaping the public opinion in Estonia, especially with regards to older people and youth. Therefore it is extremely important to use these sources for raising public awareness on anti-discrimination issues and erasing prejudices and stereotypes.

The Estonian media itself is rather indifferent towards minorities arriving and residing in Estonia. The Russian-speaking media is keener on reflecting upon interethnic issues and describing the cases of racism, however the Estonian-speaking media is rather reluctant to address them. In most of the cases the journalists are not judging but simply informing their audience about an issue. It is also unfortunate that the Estonian-speaking media tend to be unwilling to use non-Estonians as a source of information and ask for their comments or opinions.

⁵⁴ Database of the Legal Information Centre for Human Rights, 2008

It was especially the case when the Media reflected upon the case regarding the April events 2007 or the Georgian-Russian conflict of 2008.

A particularly worrying situation is the internet, especially sections where comments are allowed and available. Often such messages are provocative and extremely aggressive.

Roma also mentioned that the media were a source of stereotypes towards their community; it often labels them with various crimes, supports their exclusion etc.

Interestingly in 2008 there were two cases that regarded other issues than the usual type of media products – films and in particular translation/interpretation of foreign cartoons and movies.

Media and equal treatment

Case 1: Cartoon HORTON, by 20th Century FOX Animation

The cartoon was interpreted into the Estonian language and shown in cinemas in Estonia in spring 2008. Interestingly, the most negative hero of the movie is Vlad, he is the only one who does not become better by the end of the plot. He is constantly attacking the main hero Horton, tries to hurt him physically and morally. In the Estonian translation Vlad speaks very bad Estonian, moreover he has a strong Russian accent and makes mistakes in Estonian that are very typical for Russian-speakers and even inserts Russian words.

Moreover there are other heroes of the cartoon, who in the translated version sing the paraphrase of the famous Estonian patriotic song that was first heard during the “Singing revolution”.

The journalists and LICHR lawyers turned to the company that provided interpretation for this movie for the comments about such an issue. The latter however did not see any incitement to racial hatred in the translation. They have also replied that this was a direct request from the cartoon producer. The most worrying element indeed is that it is a children’s cartoon and that it was shown during two months in the biggest and most popular cinema in Estonia with approximately 50 000 children who saw it⁵⁵.

Case 2: Airheads movie interpreted into Estonian

In the beginning of September one of the Estonian TV channels showed the movie Airheads with the running line of captions with the Estonian translation. At some point the heroes use a word “retards” which into Estonian was translated as “tibla”, whereas this word has an absolutely different meaning. “Tibla” in Estonian is used to name Russians, it is a bad word and according to the Institute of Estonian language is insulting and should not be used in public.

When journalists addressed the translator of the movie, who is a famous linguist, the only explanation she could provide was that when she was translating she

⁵⁵ Database of the Legal Information Centre for Human Rights, 2008

somehow did not think about the fact that it could be insulting and would not do it again. She apologized and promised to take the word out of the translation⁵⁶.

NGO good practice

1. The LICHR had turned to the Media in order to make the case of HORTOM public, preventing parents from sending their children to watch it. A joint letter, together with the journalist, was written to the Film producers where the case was described and special attention was paid to the fact that such practices should not become a rule and should be stopped. Children's psychics can be severely damaged, moreover stereotypes are being created.
2. The Migration Foundation carried out a project which aimed at improving opportunities for recent immigrants in Estonia, by promoting their integration and employment. Special attention was paid to the media and its reflection about the culture and country of origin of those immigrants. In order to fulfill this objective the organisation promoted the publication of high quality articles telling about those issues.

⁵⁶, Shmelev, M. Strange accesnt of the local transaltion, *Daily Vesti*, 16.09.2008

VI. Political and legal context

2008 was a rather important year for Estonian society from different perspectives. Being influenced by the events and developments of 2007 it gave a clear picture of what attitudes and plans the current government had in store for non-Estonians and for the promotion of intercultural dialogue and integration which were to a great extent ruined and annulled during the April events of 2007 when the government showed its inability to come to a compromise and take into consideration the thoughts and beliefs of some 1/3 of the population.

It is indeed the adoption of a new integration programme, the Integration strategy 2008 – 2013, which was very long awaited and hoped to introduce serious changes and a new discourse in society. It was believed that the programme would become a continuation of the previous State Integration programme 2000 – 2007 and would eventually focus on socio-economic integration and the legal aspects rather than solely on linguistic i.e. language training. Unfortunately most of the hopes did not come true.

Being hardly pushed by the European Union and its requirements to harmonise local anti-discrimination legislation Estonia, after several failed attempts, finally adopted the Equal Treatment Act which provides for a ban on racial and ethnicity based discrimination in employment, education, health and social care, goods and service provision (and religious discrimination in employment). By doing this it has also fulfilled the transposition of EU directives 200/43 and 2000/78. It also establishes a new body that will be dealing with complaints on violation of equal treatment and promote the principle.

Secondly, being very much influenced by the April 2007 events the Parliament adopted amendments to the Penal Code that equals the cyber attacks of any kind to terroristic attacks and provide for a more severe punishment for this crime⁵⁷.

Apart from the Integration research/monitoring 2008 there were no significant studies carried out.

Despite the fact that Estonia participated in the 2001 World Conference Against Racism in Durban, South Africa, no action plan for fighting racism has been adopted or even discussed before 2008. Local municipalities have not developed any strategic programme in this area nor are there any special programmes to facilitate integration for migrants. The Tallinn City Municipality, though, continued to implement the Tallinn City Civil Peace Programme developed after April 2007 in close cooperation with the civil society and experts.

⁵⁷ Karistusseadustiku muutmise seadus, RTI, 14.03.2008, 13, 87

The only measures for minorities and migrants are the State Integration Programme and certain projects such as the new migrants' related project for example run by the quasi-official Non-Estonians Integration Foundation and New Home project run by the Migration Foundation.

VI.i Anti discrimination

Most of the political discourse and attention with regards to non-discrimination was dedicated to the draft Equal Treatment Act that was finally adopted in December 2008. Yet most of the discussion took place during the first half of the year. In May 2008 the final decision was taken by the Parliament. With the majority of one extra vote the act was not adopted. It became possible mainly by the strong lobbying of the women's NGOs that were very much against that the Gender Equality Commissioner should become the Gender Equality and Equal Treatment Commissioner. Interestingly already the next day the same draft, without any single amendment was submitted to the Parliament. It failed to be adopted again in autumn 2008 and similarly was sent back. Finally the act was adopted on December 11, 2008. The mandate of the Gender Equality Commissioner was widened. No changes were made in the limited mandate of the another equality body, the Chancellor of Justice.

In 2008 the Government introduced a new system of language proficiency certificates.⁵⁸ The LICHR had received a number of complaints stating that the employer requires its employees to re-sit the exam in order to receive new categories refusing to accept the old ones (sometimes in violation of valid rules); moreover the timing for submitting the new certificate is unrealistic. If previously the language exam took place every month, then since 2007 they take place quarterly.

No specific awareness-raising activities were carried out by the authorities or State institutions during the reporting period.

The Supreme Court yet had no possibility to rule on any case related to equal treatment on the grounds of ethnic or racial origin or religion.

Amnesty International continued to pay special attention to Estonia with regard to minority issues and especially linguistic discrimination and harassment of authorities towards human rights defenders acting in support of ethnic minorities⁵⁹.

By the end of the year there were discussions that the Penal Code should be amended and introduce punishment for organising and participation in mass disorders. This was indeed the final point of public debate on the reasons and

⁵⁸ RT I 2008, 26, 176

⁵⁹ Amnesty International, Report 2008. State of the World's Human Rights, Estonia

results of the April 2007 events and the on-going trial over the so called “organisers” of those events. Later all four of them were found not guilty by the Criminal court.

Legal developments

The main legal developments, as already mentioned, is the adoption of the Equal Treatment Act in December 2008 which entered into force in January 2009⁶⁰.

The act aims first of all, to comply with the requirement of full transposition of the EU Directives 2000/43/EC and 2000/78/EC. In summer 2007 the European Commission started the infringement procedure against Estonia since Estonia was not fully complying with the requirements of the “Race” Directive⁶¹. Similarly, in 2008, the infringement procedures with regards to non-compliance with the requirements of the “Employment Directive”⁶² were launched. The reasoned opinion and formal requests have been sent to Estonian authorities in order to clarify what steps were enacted and why the necessary provisions are not yet adopted.

The Equal Treatment Act regards the cases of discrimination on the basis of race, ethnic origin, skin colour, religious convictions, age, disability and sexual orientation, and guarantees protection against discrimination in the following fields:

- Access to occupation, employment and self-employment, including promotion, both in public and private sphere;
- Access to all types and all levels of vocational guidance and training;
- Employment and working conditions, including dismissals and pay;
- Membership of an organization of workers or employers and professional associations;
- Education;
- Social care, including social security and health care;
- Social welfare;
- Access to public goods and services, including housing⁶³.

Protection against discrimination on the grounds of religious convictions, age, disability and sexual orientation is only implemented in the occupational sphere⁶⁴.

In the field of employment and occupation, both private workers and public servants, as well as job applicants are protected under the Equal Treatment Act, which can also be applied in cases of discrimination on other grounds, defined in the Employment Contracts Act⁶⁵ and the Public Service Act⁶⁶.

⁶⁰ RT I, 2009, 11, 67

⁶¹ Directive 2000/43/EC

⁶² Directive 2000/78/EC

⁶³ Art. 2, RT I 2009, 11, 67

⁶⁴ Art. 2, RT I 2009, 11, 67

⁶⁵ RT I, 2004, 86, 584

VI.ii Migration and integration

Estonian legislation does not define “migrant” as such; neither does it differentiate seasonal workers to recent-immigrants. Estonian legislation does define the concept of a third-country national and an alien but does not make any difference with regard to the reasons behind the third-country national entering Estonia. What is important is that the person is legally entitled to stay on the territory of Estonia⁶⁷.

When talking about immigrants in Estonia, in general, a distinction should be made between two groups: first, old migrants, who often do not like to be called migrants as they have been residing in Estonia for a long time, the majority arrived during the Soviet era and some even during the Russian empire times. The other group are recent migrants or those who arrived in Estonia after 1991. If old migrants can be considered to be invisible and the majority of them speak Russian, then recent migrants also include visible immigrants or those who originate from Africa, Asia and other countries. For many of them Russian is absolutely foreign as they use more English or French. This group is not so big in numbers; however they have significant problems with integration and employment in Estonia.

There is no special programme aimed at migrants and especially new-migrants including refugees and no changes or discussion were initiated in 2008 in this regard. However, some quasi-official bodies carry out very important projects aiming at integration of new immigrants. During several years the Integration Foundation developed a system to help children who do not speak Estonian or Russian to participate in the education process at school and integrate. A wide range of activities, including study visits for school teachers, curriculum development and preparation of special materials took place⁶⁸.

Another important project UUS KODU (New Home) is carried out since 2007 by the Migration Foundation and is targeted at recent immigrants. It provides for Estonian language training and also an “orientation course’ about history, culture and modern Estonia, its legislation etc. The project is aimed at unemployed immigrants and one of its objectives is to support their employment.

It is however, extremely unfortunate that participation in such a project is limited only to those who can speak and understand the Russian language. According to the head of the project the initial plan was to also have such classes in English, but gave up the idea as there were not enough participants. Moreover the classes turned out to be extremely expensive⁶⁹.

⁶⁶ RT I 1995, 16, 228; 2008, 8, 57

⁶⁷ Written communication with the Ministry of Internal Affairs, on 11.01.07 nr 11-2-1/13483, Ministry of Foreign Affairs on 15.01.2007nr 8.3/563

⁶⁸ Presentation made by MEIS representative at an international seminar in Tallinn, on 8-9.07.2009

⁶⁹ Written Communication with the Migration Foundation, 07.07.2009

The main development that took place in 2008 is the adoption of the new Integration Strategy 2008 – 2013, which replaced the State Integration Programme 2000 – 2007. It was believed and promised that the new programme unlike the first one would focus more on socio-economic and legal-political issues and not just language and culture. Focusing on these aspects is extremely needed in Estonia given the ethnically segregated labour market.

Similarly to the first programme the basis of the new programme lies in the constitutional principles including respect and equal treatment of all people residing in Estonia regardless of their ethnic background and origin.

To the great regret of sociologists and specialists the new programme failed to take a new discourse and focus predominantly on areas other than language and culture promotion. It also lacks responsibilities to involve Estonians to the process i.e. making it a two-way approach.

The new programme continues to focus mainly on language training and retraining; minority school (language) reform; it is again highlighted that employment possibilities will improve when the Estonian language proficiency among non-Estonians will improve.

The objective of the Integration Program is to achieve by 2013 a situation, where, compared to 2007:

- Estonian language command among those, whose mother tongue is not Estonian, has improved at all levels;
- Contacts and communication between people with different mother tongues increased and difference in participation of Estonian and other languages speaking residents in civil associations and public sphere has reduced;
- The number of people with no citizenship among Estonian residents has permanently reduced;
- The major part of Estonian residents trusts people of other nationalities and vice versa.
- The majority of those whose mother tongue is not Estonian, regularly receive information via mass media in Estonian and trust this information;
- Differences in employment and income of employees of different nationalities reduced⁷⁰.

The Common Basic Principles on integration have only been taken into consideration in a very limited way and have been grounded by concrete actions applicable to the new-immigrants. Among such possibilities are: the possibility to receive school education for those children of new migrants, including those who

⁷⁰ Minister of Population Affairs, <http://www.rahvastikuminister.ee/index.php?id=11386>, accessed 09.07.2009

do not speak Estonian or Russian⁷¹; the possibility to present and preserve culture and traditions for people of other ethnic origins⁷² etc. Language knowledge as already mentioned is another core problem for the minorities residing in Estonia. Estonian is the only state language despite a large linguistic minority residing in Estonia. Language proficiency, sometimes ungrounded, is required for all those who work in the public domain. There is no obligation to speak any other language. The use of language is being supervised by a specialised body, the Language Inspectorate, established in order to inflict penalties for not using the official language in the public domain or for the lack of proficiency of the person under supervision.

The existing language policies seriously impact on the opportunities available to migrants that come to Estonia. These do not only apply to employment but also to access services and goods, the healthcare system and communication. New-immigrants, whose mother-tongue is not Russian, find themselves in a particularly vulnerable position. There are plenty of language courses organised for Russian speakers also within the programmes of professional retraining, however, non-Russian speakers have extremely limited language courses or courses that are extremely expensive. New-immigrants have reported that when they asked the responsible authorities to find a possibility to cover their expenses for the language training they were refused such assistance and recommended to apply to their employers.

VI.iii Criminal justice

VI.iii.i

Racism as a crime

According to official data and opinion racist crimes can not be considered as a serious problem for Estonia. After 2006, when the Penal Code was amended and conditions on hate crime or public incitement to hate crime became more severe, no cases were registered by the police.

However, the media and NGOs do report on the existence of hate speech, especially on the internet as well as within conflicts between various ethnic groups. In cases of physical violence however the police prefer not to qualify the cases under 'racist crimes' but simply as 'hooliganism' or 'causing physical damage' etc. The number of cases known by the author of the report cannot be considered as very high in numbers and therefore do have a mass effect.

As was the case for the previous reporting year, no high scale national debate took place in Estonia with regard to the EU Framework Decision on Racism and Xenophobia. The media did not report on the document, or on the Estonian opinion concerning the document.

⁷¹ Integration Foundation, Measures developed during the project run by the Integration foundation, www.meis.ee, accessed 07.07.2009

⁷² Communication with Eva-Maria Asari, Counselor to the Minister of Population Affairs, 10.07.2009

No legal developments regarding racial crimes took place in 2008.

VI.iii.ii Counter terrorism

It is in general possible to say that counter terrorism issues are as a rule being discussed in Estonia with regards to some issues related to the Russian Federation. Whilst there is no official document that would name this state as a potential threat to the statehood and independence of Estonia in general or can perform any terrorist attacks.

Most of the discourse regarding violence performed by Russia occurred in August 2008 while there was a militant conflict in Southern Ossetia. The Media had an important role in portraying an enemy that is also threatening Estonia. Estonia accompanied with the neighbour countries preferred to react immediately and claim that Russia is an aggressor and can also act against Estonian independence without any due consideration or research.

In general, it is true that local politicians and Estonian-speaking media are always trying to highlight the country's past, namely the Soviet era, and create a stereotype that Russia is still interested in Estonia and therefore is a threat.

Another issue of concern with regards to counter terrorism measures discussed during 2008 relates again to the case of the April riots in 2007. Once more, the Estonian government again tried to prove that Russia was standing behind the riots, however no reliable evidence were made publicly available. During the year 2008 the trials against those who participated in riots were taking place. However the most topical discourse was around the trial of the four suspects and the media who were also blamed for organising the riots and being paid by Russia. Later in 2009 all four people were sentenced not guilty.

At the same time special attention is paid to Muslims residing in Estonia, especially 'new-Muslims' i.e. those arriving from countries other than the former USSR. Such attention might be paid in order to ensure that they do not belong to terroristic organizations or have any contact with such. For example the Estonian Security Police considers it to be possible that some extremists' groupings might be interested in having branches or agents in Estonia and are providing financial assistance to local Muslim⁷³.

Similarly to previous years the Security Police continues to see leading pro-minority NGOs acting to support non-Estonians residing in Estonia, including those promoting Russian language and culture, as a threat to constitutional order. Such organizations are mentioned in the annual reports of the Security Police in the chapter Protection of the constitutional order or in 2009 in particular "under Manipulations with the compatriots by the Russian Federation"⁷⁴.

⁷³ KAPO Aastaraamat 2008

⁷⁴ KAPO Aastaraamat 2008

Special attention is also paid to the Russian-speaking media produced in Estonia and the possibility to watch TV channels broadcasted from Russia via cable TV⁷⁵. It had already been numerously expressed by some top ranking politicians that Estonia should ban or limit to broadcast Russian TV in Estonia and create its own TV channel in Russian that will be providing correct information in line with the official guidelines.

NGOs cannot do much more than express their serious concern with regards to such trends. However, even in this difficult situation they try their best to prevent shaping negative public opinion on the Muslim community, and the portraying of an enemy from any state without good reason for that by providing articles for the media and publication, and making the voice of the Muslim community visible.

The main legal development regarding counter terrorism is the drafting of the amendments to the Penal Code and namely equalling cyber attacks of any kind towards terrorist attacks and providing more severe punishment for such crimes⁷⁶.

VI.iii.iii Racial profiling

Racial profiling can still not be regarded as a serious problem for Estonia, although there were several cases that can be considered as racial profiling. The majority of those cases are highly politicised and have their roots in the April 2007 events.

There is no legal act or policy adopted that would allow or support racial profiling as such. Neither are there any discussions with regards to this issue.

Representatives of visible minorities and especially visible religious minorities report certain problems and use of racial profiling against them⁷⁷. Such problems were described earlier in this report.

VI.iv Social inclusion

During the year 2008 Estonia was fulfilling the National Strategy for Social Protection and Social Inclusion 2006–2008. This strategy provides for measures that would help to overcome social exclusion of the certain groups such as people with disabilities, elderly and those that were punished for criminal offence etc, address various risk groups such as drug addicts, families with many children and others⁷⁸.

⁷⁵ KAPO Aastaraamat 2008

⁷⁶ Karistusseadustiku muutmise seadus, RTI, 14.03.2008, 13, 87

⁷⁷ Communication with the human rights NGO representing visible immigrants.

⁷⁸ Ministry of Social Affairs, National Strategy for Social Protection and Social Inclusion 2006–2008, www.sm.ee, accessed 25.06.2009

Unlike previous years, ethnic minorities residing on the territory of Estonia are no longer considered to be vulnerable or socially excluded and unprotected; therefore the Strategy does not introduce any specific measures for this group of people. Immigrants, and in particular recent immigrants, or those who arrived in Estonia after 1991 and visible immigrants are not mentioned in anyway in this strategy.

With regards to the fulfilment of the Strategy for Social Protection and Social Inclusion it is highlighted in the report that the integration of non-Estonians is very important and, therefore, it is important to use a combined approach together with other bodies and other strategies, i.e. Estonian Integration Strategy 2008 – 2013⁷⁹.

It is again worthwhile to stress that the situation of visible immigrants is absolutely unknown for authorities and civil society, and therefore it should be studied thoroughly and special measures aiming at their protection are to be implemented.

No separate funding is allocated for the actions addressing ethnic minorities; however it is theoretically possible to receive grants through the Council of Gambling taxation for the actions addressing equal treatment, services to elderly, children, and people with special needs etc.

No major *legal developments* in the area of social inclusion took place in 2008.

⁷⁹ Written communication with the Ministry of Social Affairs, 16.07.2009

VII. National recommendations

Most of the recommendations highlighted in this report have already been mentioned in the previous shadow reports and also other reports, researches and recommendations developed by the author's organisation as well as international bodies.

VII.i General

- to create a credible system of discrimination-related data collection that would cover all aspects of life
- to carry out detailed research covering various aspects of life of ethnic and religious minorities
- to study the situation of new-immigrants and Roma. It should be done separately in order to have a better picture and not to lose the significance of such data
- to provide for a large scale awareness raising campaigns and to cover the issue of non-discrimination, racism and instruments of protection of the violated rights. Various target groups should be tackled separately, and the language of campaign should be not only Estonian, but additionally at least Russian and English. Important role should be delegated to media

VII.ii Anti-discrimination

- to provide funds and resources for successful implementation of the anti-discrimination legislation
- to encourage people to take their cases in front of the court, or equality body, or at least to the civil society representatives that are working with such cases
- to implement official positive action measures
- to adopt anti-discrimination working plan based on Durban Document
- to allocate funds for the civil society organisations to serve for awareness raising, legal aid etc. in cases of racism
- To develop and launch a curriculum regarding racially motivated crimes within the policemen training programme and retraining

VII.iii Migration and integration

- to adopt special programmes aimed at refugees and new-migrants
- incorporating the CBPs
- to provide language and "country orientation" courses free of charge and make them available also in languages other than Russian
- to monitor the situation of new immigrants residing in Estonia and especially visible immigrants and visible religious groups. To monitor the official linguistic policies in order to protect minorities from unfounded and disproportionate control over the use of languages at work, in public

places, and in contact with public administration. Naturalization of non-citizens shall be as simple as possible and probably should not include formalised language exams.

VII.iv Criminal justice

VII.iv.i Racism as a crime

- Creating a comprehensive system of monitoring and investigation of ethnically and racially motivated crimes, backed by specialised training of police officers on the permanent basis.
- Comprehensive protection against all types of incitement to ethnic hatred (and particularly against public hate speech) should be restored in criminal law, and special attention should be paid to potentially dangerous right-wing radical groups
- To amend local legislation in order to provide a possibility to tackle hatred speech, insult, and other abuses even if they only cause moral damage

VII.iv.ii Counter terrorism

- To stop the labelling, without proper evidence, of organisations, persons, and even states, as a threat, as well as attempts to discredit them on national and international level.
- To stop harassing NGOs for their activities aimed at providing support and legal aid to the ethnic minority population and stop considering their activities to be a threat to the statehood and constitutional order.

VII.iv.iii Racial profiling

- to provide special trainings for the police and security men as well as authorities and aiming at ending up the possible profiling practices

VII.v Social inclusion

- to recognise that immigrants and non-Estonian population are at a high risk of being socially excluded, and to adopt special measures aiming to address this group

VIII. Conclusion

Same as previous years Estonia continues to suffer from intolerance, and what is more serious, from the inability to understand and accept the notion that ethnic minorities are a legitimate part of society, and that they need guarantees of having the same rights and responsibilities as the majority population. Both positive and negative trends can be seen in local debates.

Estonia has finally harmonised its legislation with the requirements of the EU directives by adopting the Equal Treatment Act and establishing the Gender Equality and Equal Treatment Commissioner institution, which will hopefully allow providing judgements on strategic issues and will be actively involved in awareness raising with regards to measures and instruments available for protecting violated rights.

The new Integration Strategy, despite all the criticism and disappointment, also introduced some positive elements. Special attention should be paid to the recent immigrants that often suffer from the inability to fully participate in public and employment life due to the lack of opportunity to study the language.

Despite the positive trends the country still lacks detailed research focused on the situation of ethnic minorities and immigrants residing on its territory.

The awareness of the general public on what discrimination is, and what mechanisms of protection against it are available, is rather low. This results from the state's unwillingness and lack of awareness-raising campaigns, but also from a disappointment in the judicial system.

The main issue of concern, indeed, is the future of education in Russian. It is sad to notice that the current politics implemented by the Ministry of Education and Research has a clearly assimilative approach, which can bring serious problems with democracy and racism.

Despite the fact that civil society NGOs dealing with the issue of racism are limited in numbers, have very limited funding, and are under permanent threat of sanctions from the state, their activities and influence can not be omitted. NGOs serve as one of the main sources of information regarding cases of racism and do their best to bring cases of strategic litigation to courts. Moreover, most of the awareness-raising campaigns aimed at various target groups are run predominantly by the civil society organisations.

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X. Annex 1: List of abbreviations and terminology

AI - Amnesty International
CBP - Common Basic Principles
EC - European Commission
LICHR - **Legal** Information Centre for Human Rights
MEIS – Integration Foundation (Mitte-estlaste integratsiooni sihtasutus)

TERMINOLOGY

Immigrants in Estonia – there are two groups of immigrants in Estonia. First, the long-term immigrants which is used rarely due to the fact that this group does not consider its members to be immigrants. Consists predominantly of those who arrived in Estonia during the Soviet times due to the so to say forced migration of labour force and specialists and those who arrived for other reasons. Those belonging to this group often have several generations residing in Estonia. They have long-time strong connections with the state.

The second group is –new-immigrants, i.e. those who arrived in Estonia after 1991. Often they are visible minorities as they originate from African and Asian countries.

The same applies to the term of old-Muslim and new-Muslim.

April events 2007– Events that took place in Tallinn 27 – 29 of April. They started over the decision of the Government to transfer the WWII monument in Tallinn, known also as Bronze soldier, which was perceived to be a symbol of victory by the Soviet Army over fascists. The government, however, introduced a new concept that would claim that it is a symbol of occupation which Russian-speakers in Estonia like as they nostalgically want to bring back Soviet Union or became part of Russia and that it symbolises power of Russians.

After violent acts of police initially peaceful gatherings of protesters transformed into mass disturbances and marauding in which both Estonians and Russians participated. More than 1.100 people were arrested and placed in D-terminal in the harbour and other places, hundreds were severely injured, one 20-year-old man stabbed to death. Tens of complaints against police excess power and brutality were submitted for investigation, however very few resulted in investigations and no policemen were tried in courts. Racial profiling of protesters was also taking place.

The April riots became an indicator of integration processes in Estonia and proved the findings of sociologists and other experts that the integration has taken not only the wrong direction and instruments but in general failed to take place to any noticeable degree for large segments of the society.



european network against racism

ENAR Shadow Report 2008