ENAR Shadow Report
2005

Racism in Estonia

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I. Introduction

The aim of this Shadow report has been to provide an overview of both the legal developments in the sphere of combating racism and discrimination on the grounds of ethnic origin and language and the political context as well as provide the latest information with regards to the implementation of the existing legal provisions and practises with the illustration of statistical data in Estonia.

It is very pleasant that during the year 2005 the local authorities have shown interest in harmonising national legislation with the requirements of the European Union and in general improving the situation with respect to minorities and immigrants residing on the territory of Estonia. Changes in the political context are sometimes a bit slow but taking place, identifying the gaps and needs of the State. Certain difficulties have been met by the author in receiving data about the cases of discrimination as there lacks a State monitoring system which would engage in gathering this data.

The author of the report tried to structure it in the way to address both the local needs and the dimensions of modern European society, as well as the response to emerging issues.
The Estonian legal system is rather typical for continental Europe. It has historically been influenced by German, Russian and Scandinavian legal traditions. The main source of normative rules is the Constitution and laws. The case law cannot be considered to be a source of normative legal rules, although lately a lot of attention is being paid by the judges to previous rulings. The decisions of the Supreme Court are directly influencing local legal practice.\(^1\)

Estonia has joined the major international conventions and treaties aimed at combating racism and unequal treatment. In the event that the national law is in breach, the international should prevail.

### II.i Anti discrimination

Before accession to the European Union Estonia did not have any detailed anti-discrimination legislation. Most of the positive changes took place in early 2004 shortly before the accession to the EU when Estonia was called upon to transpose certain provisions and clauses of the *acquis communautaire* of the national legislation.

The fundamental provision against discrimination is brought in the Constitution of the Estonian Republic, article 12.\(^2\) However, the provision is of a rather general scope as it equally applies to any ground of discrimination. A similar provision can be found in a number of acts: Law of Cultural Autonomy of National Minorities, Law on Wages, Law on Advertising.

Special provisions with regards to discrimination entered into force on 1 May 2004 and are contained in the amended Labour Employment Act. The amendments introduced the long awaited definition of discrimination, both direct and indirect; harassment, although of a limited scope where harassment can be identified only in the relation of subordination and shift of burden of proof. Moreover, very significant amendments have been introduced to the Law on the Chancellor of Justice, who starting from 1 January 2004 received a mandate to deal with cases of discrimination experienced formally by both natural and legal persons.\(^3\) The amendments made are not however transposing the two EC Directives, so called Race and Employment Directives, to their full and therefore more national provisions need to be introduced.

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\(^1\) Report on measures to combat discrimination, Country report February 2005: Estonia, by V. Poleshchuk; Human European Consultancy and MPG

\(^2\) EV PohiseadusRT I 1992, 26, 349

\(^3\) Oiguskantsleri seadus, RT I 1999, 29, 406
In 2005, several new pieces of legislation were adopted. They all contribute to the problem of better transposition of the community directives. One of the most significant changes is the ratification by Estonian Parliament of the ILO Convention No. 111 Concerning Discrimination in Respect of Employment and Occupation.\(^4\) In the explanatory note on the ratification draft it is emphasised that ratification of the convention will improve the image of Estonia in the international arena and provide additional guarantees for Estonian residents in their access to employment.

Another very important step has been introduced by the regulation on religious dress which entered into force on 1 May 1 2005. The amendments were introduced through the Governmental regulation no. 79-81 of 18 April 2005 and now allow Muslims and others wearing religious headgear to submit a photo for the ID and other important documents as they are. Such a photograph can be submitted only for religious reasons and in every case it must be accompanied by a written estimation of necessity for such an exception. The opinion should be provided by the Minister of the Interior who is in charge of working with religious organisations. This is in fact the first time that legal norms are being adopted to meet the needs of Muslims in Estonia. The Muslim community in Estonia is rather small and therefore it is extremely positive that their needs are starting to be taken into account.

It is interesting to note that the need for harmonisation of the national legislation with the European Directives and therefore actions to improve the legal basis with regards to discrimination, is being dealt with by various Ministries differently. According to the Ministry of Justice, further changes are not needed because a relevant provision in the Constitution (article 12) stipulates a general unlimited anti-discrimination rule which might be implemented directly without any additional norms of the secondary legislation.\(^5\) At the same time, the Ministry of Social Affairs recognises the gaps in the transposition of Directive 2000/78/EC. They believe that the best solution would be to adopt a single Act also covering the requirements of Directive 2000/43/EC.\(^6\) Such a possibility has in fact been discussed for several years, a draft has been made and has gone through several readings in the Parliament, but after the Government change has not been adopted.

**II.ii Migration, family reunion and asylum policies**

One of the main achievements to be considered is the adoption of the Law on Granting an Alien International Protection\(^7\) on 14 December 2005. The law will enter into force on 07.01.2006 and is to substitute the Refugee Law. The new Act

\(^4\) RT II, 17, 53  
\(^5\) Ministry of Justice, written communication no. 3-2-4/9168 of August 12, 2005  
\(^6\) Ministry of Social Affairs; written communication no. 3-6/7952 of September 5, 2005  
\(^7\) Valismaalase rahvusvahelise kaitse andmise seadus, RT I 2006, 2, 3
is an attempt to incorporate the provisions for Directive 2003/9/EC into the national legislation and lay down minimum standards for the reception of asylum seekers.

It is indeed worth mentioning the desire of the Ministry of the Interior to make necessary changes to the Law on Aliens in order to transpose the provisions of Directive 2004/81/EC on residence permits for third-country nationals who are victims of trafficking or have been subject of an action to facilitate illegal immigration. The Ministry of the Interior also notified its intention to elaborate a new Law on Citizens of the European Union in order to implement measures of Directive 2004/38/EC.

II.iii Racism as a crime

The new Penal Code was enacted on 1 September 2005. The Penal Code considers racism to be a crime through banning activities which publicly incite to hatred or violence on the basis of nationality, race, colour, sex, language, origin, religion, political opinion, financial or social status. If significant damage is thereby caused to the rights or interests of another person protected by law or to public interests, it is punishable by a pecuniary punishment or up to three years imprisonment. Article 152 of the code penalises “unlawful restriction of the rights of a human being or granting of unlawful preferences to a person on the basis of ethnic origin, race, colour, sex, language, origin, religion, political opinion, financial or social status.” Article 153 bans discrimination based on generic risks and articles 154, 155 provide for protection of freedom of religion.

No other provision or policies with regards to racism as a crime have been introduced.

II.iv Counter Terrorism

There have been no changes with regards to counter terrorism in Estonia in 2005. Major changes took place in 2004 when Estonia joined the EU and NATO and took on the obligations to combat terrorism and take any measure to act against it. Main provisions with regards to terrorism can be found in several articles of the Penal code. Article 237 defines terrorism as “acts aimed at causing health damage or death or unlawful seizure, damage or destruction of property, committed with the intention to provoke war or an international conflict or for political or religious causes.” However, this can be considered a rather broad definition and may have adverse consequences for the protection of rights under article 15 ICCPR. This opinion has been brought upon by the Human Rights Committee.

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8 Ministry of the Interior; written communication of August 16, 2005
11 Karistusseadustik, RT I 2004, 46, 329, (04.06.2004), art. 151
13 Karistusseadustik, RT I 2001, 61, 364, RT I 2002, 86, 504
Rights Committee with regards to the Estonian second State report on fulfilling the provisions of ICCPR.

Moreover in the year 2004 the new National Security Concept of the Republic of Estonia was adopted. It amended the NSC of 2001 and has been called upon for the above mentioned changes. It is directly connected with developments in the international security environment. The Estonian strategy addresses threats deriving from various conditions; special attention is brought towards the threat of external coercion when other States could try influencing the domestic and foreign policies of the country, applying politically motivated economic and other measures against Estonia. Another serious concern are social problems such as drug addiction, alcoholism and the spread of HIV/AIDS as well as large flows of refugees and extensive migration in times of emergency in Estonia’s vicinity.

According to the NSC 2004, internal security through non-militant measures should be enhanced by the local security agencies and primarily the Security Police Board and Information Board who also collect data and process information on the basis of which the fundamental principles of the National Security Police are formulated.

**II.v Counter-trafficking**

During 2005, some significant changes can be identified. At the end of the year the draft National Development Plan against Trafficking in Human Beings was finally sent to the Parliament for decision (the decision is expected to be made in January 2006). This strategy would identify the actions to be taken to counteract this serious problem for Estonia, such as legislative changes needed and would create a stronger system of preventing, identifying, helping and prosecuting.

Discussions with regards to prostitution have also started in the Parliament and among various political parties. The Ministry of Justice is planning to draft amendments to Article 133 of the Penal Code (Enslaving) to prevent the misuse of a person in a helpless situation and exploitation of a minor under the age of 18 regardless of his or her consent. The Ministry of Social Affairs has already taken some measures to implement the provisions of Framework Decision 2002/629/JSK. The most important of them was adopted of the Law on Victim Support that entered into force partly in 2004 and partly on 1 January 2005 and aims to support those who have become victims of violence, including moral and physical violence, through a system of psychological, legal and social assistance and also by providing a possibility for compensation in cases where

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16 National Security Concept of the Republic of Estonia, p. 4.2.1, 2004
17 Karistus seadustik, RT I 2001, 61, 364
18 Ministry of Justice; written communication no. 3-2-4/9168 of 12 August 2005
severe damage or even death has been caused.\textsuperscript{19} This law can also be applied in cases of racist violence.

\textsuperscript{19} Ohvri abi seadus, RT I 2004, 2,3
III. Communities vulnerable to racism

Estonia can be considered a country with a rather young statehood. Its independence record can be tracked as of 1920, when the Tartu Peace Treaty with Soviet Russia was signed. Between 1940 and 1991 it was however under Soviet regime.

Nowadays, Estonia is a multiethnic society where most of the ethnic groups reside on its territory permanently due to the historical background of the State. As of January 2004 ethnic non-Estonians made up 32% of the total population of Estonia. The majority of them, approximately 80% (or 26% of the total population) were of Russian ethnic origin. In some areas, ethnic non-Estonians constituted the absolute majority (Ida-Virumaa county counted some 80% of the total population). Most settled in Estonia after World War II due to natural and sometimes forced migration during the Soviet time. In many cases the representatives of ethnic minorities have been residing in Estonia for several generations and in few cases for several centuries.

In 2000, 80% of the total population were Estonian citizens, 12.4% were stateless former Soviet citizens who due to a number of reasons did not want or could not obtain Estonian or any other citizenship, and 6.3% were Russian citizens. In 2005, the percentage of stateless persons decreased to approximately 10%. The Roma population is rather small in number according to official national census data gathered in 2000; the number of ethnic Roma has been noted as bit more than 500, although according to other sources they can be expected to be 1,500 – 2,000. This does not mean however that the Roma community does not experience problems, but the scale is a bit less that in countries with a large number of representatives of this ethnic group. The number of asylum seekers and refugees in Estonia is rather small and therefore the problem with regards to their integration is not as sharp as in the neighboring countries.

Estonian society is rather indifferent towards religion and faiths; ethnic non-Estonians are significantly more religious than Estonians. The majority of believers are of Lutheran faith, the second largest group are Orthodox.

In the course of a sociological study in Tallinn in 2005, 17.1% of ethnic non-Estonians alleged that they had experienced limitations to their rights or degrading treatment in the workplace during the past three years because of their ethnic origin. They also claimed to be unequally treated due to their ethnicity in educational institutions – 11.2%, in provision of services – 28.8%, restaurants – 9.9%, in housing – 12.5% and public transport – 21.3%.

There is limited information regarding instances of discrimination or relevant court cases. Thus

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20 LICHR and Saar Pool; Sociological study in Tallinn, September 2005. Database of the study
between 1999 and 2005, the National Labour Inspectorate did not uncover any violations of the non-discrimination principle at work on the ground of ethnic origin and in 2005 claimed that they did not gather such statistics. Also, to the best of our knowledge, no such cases have been identified by the Labour dispute commissions (pre-judicial body).

This tendency can however be explained by a rather low level of awareness about discrimination within the society and poor knowledge of mechanisms to protect against violated rights. Moreover, most of the cases fall within the scope of the labour law, which often scares the victim and prevents him or her from complaining. At least two cases were initiated in 2005 under the provisions of the Penal Code article prohibiting public incitement to hatred or violence on the basis of ethnic origin. At least two final court decisions related to incitement made.

The Office of the Chancellor of Justice, who has jurisdiction to deal with discrimination cases, did not decide on any case between private parties in 2005. They reported to have received one complaint on ethnic discrimination in access to services which had to be stopped because one of the parties refused to continue. According to Estonian law, article 357, the Chancellor of Justice can only solve a problem in the framework of the so-called conciliation procedure, the aim of which is to reach an agreement between two parties. In the event that one of the parties (violator) refuses to participate, the procedure will be stopped by the Chancellor and can be decided on only by the court.

During 2005, the Legal Information Centre for Human Rights has been managing an anti-discrimination hotline which enabled not only to help people to solve their problems and raise general awareness, but also gathered important statistics and identified the most problematic areas and issues. This information is also being used in this report.

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21 Oiguskantsleri seadus, RT I 1999, 29, 406; RTI 2003, 23/142
IV. Manifestations of racism and religious discrimination

There is a lack of statistical data on cases of discrimination in employment due to the fact that none of the state bodies is responsible for gathering such information and this will be identified further in a number of sections of this report. The main provider of the information is anti-discrimination NGOs who, through their activities carry out professional surveys and situation monitoring, can be credible.

IV.i Employment

There is no data on discrimination in the labour market due to the fact that neither the Estonian Labour Inspection, nor the Labour Disputes Resolution Commission, a pre-judicial institution, collect such information.22 During the first half of 2005, the Chancellor for Justice received only one complaint regarding discrimination in the private sector and another complaint regarding employment–based discrimination due to language proficiency. The victim refused to file the complaint according to an established order however and the case was not launched. As for discrimination in the public sector, there have been no complaints at all.

Information with regards to employment can be mainly received from statistical data. The unemployment rate in Estonia in general is not that high, however among non-Estonians the average unemployment rate is two times higher than among non-Estonians.

Table 1. Ethnic Estonians and non-Estonians by labour status and age group, 2004 (%)23

<table>
<thead>
<tr>
<th>Ethnic origin age group</th>
<th>Labour force participation</th>
<th>Employment rate</th>
<th>Unemployment rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>ESTONIANS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15-24</td>
<td>33.2</td>
<td>27.6</td>
<td>17.0</td>
</tr>
<tr>
<td>25-49</td>
<td>86.4</td>
<td>81.6</td>
<td>5.6</td>
</tr>
<tr>
<td>50-74</td>
<td>49.4</td>
<td>47.3</td>
<td>4.2</td>
</tr>
<tr>
<td>Total 15 - 74</td>
<td>62.5</td>
<td>58.5</td>
<td>6.4</td>
</tr>
<tr>
<td>16 to pension age</td>
<td>73.0</td>
<td>68.0</td>
<td>6.8</td>
</tr>
<tr>
<td>NON-ESTONIANS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15-24</td>
<td>36.1</td>
<td>25.0</td>
<td>30.9</td>
</tr>
<tr>
<td>25-49</td>
<td>86.3</td>
<td>74.0</td>
<td>14.3</td>
</tr>
<tr>
<td>50-74</td>
<td>48.6</td>
<td>42.4</td>
<td>12.7</td>
</tr>
<tr>
<td>Total 15 - 74</td>
<td>63.7</td>
<td>53.8</td>
<td>15.6</td>
</tr>
<tr>
<td>16 to pension age</td>
<td>74.3</td>
<td>62.2</td>
<td>16.3</td>
</tr>
</tbody>
</table>

22 Labour Inspectorate; written communication no. 1-05/13815v of 28 July 2005 and 1-05/13815-3 of 19 August 2005
23 Statistical Office of Estonia; written communication of 3 June 2005, data of the labour force study in 2004
Some information can be taken from the Legal Information Centre for Human Rights, who during 2005 provided an anti-discrimination hotline. The majority of persons alleged being discriminated in employment due to their ethnic origin or language. One of the most typical complaints related to discrimination because of the ethnic origin in employment was:

A woman of Russian ethnic origin with high level of proficiency in Estonian applied for the position of accountant. During the telephone conversation, the representative of an employer noticed her accent and wondered what her ethnic origin was. Finding out the women was Russian, the employer denied her candidature with an explanation that Russian people are not need and do not qualify for this position.

Recent sociological studies also provide the evidence that non-Estonians tend to believe they are victims of discrimination. During the sociological study in Tallinn carried out by the Legal Information Centre for Human Rights together with the sociological firm Saar Poll, the following results were received: 17.7% of questioned Russian-speakers alleged that during the last three years their rights had been limited in the workplace because of their ethnic origin and 23.7% because of their mother tongue. For ethnic Estonians, the numbers were 2.3 and 2.6% respectively. Moreover 32.0 per cent of Estonians replied that they would prefer working in a collective where only ethnic Estonians and Estonian-speakers were present. However 51.1% of Estonian-speakers did not care about this and only 16.9% preferred a mixed collective.

With regards to immigrants, refugees and asylum seekers, data about their employment performance in Estonia is not being collected by any of the actors; no special attention is being paid to their working conditions by the Labour Inspectorate except for those carried out in the frame of general checks. There are no special trade unions for immigrants, however they are not prevented from joining other existing trade unions without any limitation.

One rather big concern with regards to employment issues is practical implementation of the language proficiency knowledge requirements for employees in the public and private sector. The Estonian Law on Language requires: “the use of Estonian by companies, non-profit associations and foundations, by employers thereof and by sole proprietors is regulated if it is in the public interest, which for the purpose of this Law, means public safety, public order, general government, public health, health protection, consumer protection and occupational safety. The establishment of requirements concerning proficiency in and use of Estonian shall be justified and in proportion to be objective being sought and shall not distort the nature of the rights which are restricted.” (Article 21 section 2).

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25 LICHR and Saar Pool; Sociological study in Tallinn, September 2005. Database of the study
26 Keeleseadus, RT I 1995, 23, 334
Estonian language proficiency is tested via special exams and measured by three levels of proficiency certificates: low, middle and advanced level. The Language Inspectorate is a public body which aims to supervise the implementation of linguistic requirements. It is also mandated to carry out checks in public and private companies to identify if employees have the required language certificate and if their knowledge relates to the certificate. It also supervises the use of languages in public i.e. advertisements etc. If lately it has become rather tolerant with regards to the latter, then according to its weekly press releases the conclusion can be drawn that the majority of concerns are about linguistic requirements in employment.

A lot of cases have been brought forward with regards to the fulfilment of language requirements among teachers at Russian-speaking schools kindergartens and other education institutions. During the first half of 2005, 45% of administrative acts related to this, in 87% of those acts, information about violation of language-related legal norms was included.27

IV.ii Housing

Information regarding discrimination and racist incidents in housing is not collected in a systematic way by Estonian public institutions. The Legal Information Centre for Human Rights, an NGO providing an anti-discrimination hotline, could either provide information with regards to this issue either.

In general, provision of municipal housing is rather limited in Estonia. The state however fully recognises this gap and therefore in its National Plan for Social Inclusion aims at increasing the number of municipal housing and making it more available. As for the present situation, municipal housing is distributed among low-income families, large families and young families. The majority or housing is provided for those from orphanages without any privilege with regards to ethnicity.

Mortgages are widely available and often at very preferential rates for purchasing living premises, however they are available for those with a rather high level of income and stable employment, which in the case of minorities is sometimes hard.28 However, there are no provisions that would theoretically prevent ethnic minorities from receiving such a mortgage.

In September 2005 in Tallinn, a sociological study was carried out where both Estonian and Russian-speakers were asked if they had felt a limitation of their rights with regards to housing (upon renting or buying of real estate, access and quality of communal services, contacts with landlords etc. within the last three

27 Language inspectorate, data provided at the official homepage www.keeleinsp.ee (05.10.2005)
years. The Estonian-speakers claimed such an experience in 3% of cases, Russian-speakers in 13%.\textsuperscript{29} We believe that in the majority of cases such a negative experience can be related to conflicts over language (Estonian – Russian).

With regards to segregation in housing, this does not exist for the Russian-speaking community, despite of the fact that in some parts of some cities (primarily big cities) the number of Russian-speaking residents is a bit higher than in others. This fact can be explained by many different grounds, such as time of construction and process of migration related to these years. These parts of the cities are not isolated either. In most cases the living conditions can be considered even better as these districts have been constructed more recently.\textsuperscript{30} There are no reasons to think that conditions have changed drastically during recent years.

During 2005, there have been no complaints with regards to quality of housing neither in the Reception Centre for Refugees nor in the Deportation Centre; although in 2004 there were complaints regarding quality of food and access to medical services at the Deportation Centre.\textsuperscript{31} There have been some complaints from representatives of the Roma community from the South of the country with regards to lack of quality housing provided to Roma, however no studies have been carried out in order to prove or reject this claim.

\textbf{IV.iii Education}

There is no official data with regards to cases of racism or discrimination in the field of education. The Chancellor of Justice, who has a mandate to deal with cases of discrimination since 1 January 2004\textsuperscript{32}, did not receive any complaints with regards to this issue.\textsuperscript{33} Among calls made to the anti-discrimination hotline of the Legal Information Centre for Human Rights there were only 19 calls with allegations related to discrimination in educational institutions.\textsuperscript{34} In September 2005 a sociological study carried out in Tallinn identified that 12% of Russian-speakers considered being unequally treated in educational institutions during the last three years and 32% were not in such places during the time concerned.\textsuperscript{35}

The school system of Estonia consists of Estonian-speaking and Russian-speaking public schools where subjects are taught in the respective languages.

\textsuperscript{29} LICHR and Saar Pool; Sociological study in Tallinn, September 2005
\textsuperscript{31} Mr. Andrei Arjupin, (legal advisor, coordinator of the project on Legal aid for refugees supported by the Ministry of Internal and European Refugee Fund), interview of 1 March 2006
\textsuperscript{32} Oiguskantsleri seadus, RT I 1999, 29, 406; RTI 2003, 23/142
\textsuperscript{33} Legal Chancellor; Written communication no. 5-3/0503214 of 14 June 2005
\textsuperscript{34} LICHR, anti-discrimination hotline database, 2005
\textsuperscript{35} LICHR and Saar Pool; Sociological study in Tallinn, September 2005
A rather small number of private schools offer education partly in other foreign languages. In the academic year 2003/2004, 46,401 pupils studied at Russian schools which is 24% of the total number of pupils in all schools.  

In 2007, the so called “reform” of Russian-language education is to take place. This can be considered to be the most challenging reform for the non-Estonian population and school. According to the Law on Basic School and Upper Secondary School, a transition of Russian medium upper secondary school to Estonian as the main language of instruction should take place starting in 2007/2008. From then on, 60% of the subjects in the curriculum should be taught in Estonian. During 2005, certain preparations started to take place. In September 2005 the Minister of Education reported that among the first subjects to be taught in Estonian will be Estonian language and literature, Civic education, History, Geography, and Music.

Public reaction towards this reform differs. The majority of Russian-speakers still consider the best education to be provided in Russian as the language of instruction, where Estonian is taught as a separate language, whereas Estonians would prefer minorities to study in Estonian schools.

Various international monitoring and human rights bodies have been expressing their concerns about the process. In 2005, the Opinion of the Advisory Committee of the Framework Convention for the Protection of National Minorities (FCNM) noted: “there is a clear need to provide the schools, local authorities and others concerned with more procedural and other guidance on how to invoke the possibility of having a minority language as a language of instruction after 2007. Furthermore, there is a need for the central authorities to take more proactive measures on this matter and to establish a sound approach on how to process future applications and to take eventual decisions in line with the principles of the FCNM.”

Higher public education is in Estonian language, with some faculties enabling Russian-speakers to participate in the work in Russian and receive additional language training until the second year of education. Public education consists of publicly paid and unpaid places where the number of free places is very limited. In the academic year 2003/2004, 35% of the graduates of Russian-speaking schools continued their education at public higher education institutions on the State account. It is possible to assume that the majority of the rest continued education either with unpaid places or at widely-available private universities.

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37 RT I 1993, 63, 892
38 Daily Molodezh Estonii, 01.09.2005
39 LCHR and Saar Pool; Sociological study in Tallinn, September 2005
40 Advisory Committee on the FCNM (2005), Second opinion on Estonia adopted on February 24, 2005, ACFC/INF/OP/II(2005)001
41 Daily Postimees, 17.12.2004
The percentage of minority students in different public institutions is different and does not depend on the availability of programmes in Russian. A rather high number of Russian-speaking students can be observed in the Tallinn Technical University and the University of Tallinn. These universities also provide a possibility of “transition” studies when during the first year of education the students are allowed to conduct the work in Russian and by the second year transfer to Estonian as the main language of studies.

With regards to Roma there are no major problems of segregation in education. This is also due to a rather small Roma community. According to the Statistical Office of Estonia, the total number of Roma was at least 542 in 2000. In the 2003/2004 academic year, there were 56 Roma pupils in Estonian schools, mostly at the basic school level. The Roma National Union (NGO) leader has indicated however that Roma children are in some cases placed to schools for children with mental difficulties, this information however is unproved. The Ministry of Education and Research created a special working group to find ways to promote participation of young Roma in education. Unfortunately only one representative of the Roma community has been invited to participate as an expert.

**IV.iv Health**

Information with regards to discrimination and racism in access to health services is not collected by the State bodies, nor has there been any relevant data collected by NGOs providing services for the victims of discrimination.

The Health care system is available to everyone without any distinction made on the grounds of ethnic belonging or race. The main prerequisite for health care is availability of health insurance provided to all employed persons and the self-employed, young people under 18 or those studying for a degree at a recognised university or institution and before the age of 24, pensioners, mothers with children under the age of three, officially registered unemployed during a certain period of time and some other categories, as well as those who have made private health insurance arrangements.

The main problem with regards to receiving medical help can be seen in the ability to communicate in the Estonian language for some groups. Despite the fact that a rather big group of people whose mother tongue is other than Estonian (in the majority of cases Russian) live in Estonia, medical personnel is not required to be able to understand the Russian language, especially with regards

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42 From Written communications with the various higher education institutions
44 Ministry of Education and Research, written communication no. 3.1-3/4172 of 3 August 2004
45 Official website of the body responsible for health provision, Haigekassa, www.haigekassa.ee
to young specialists who did not participate in language training. Indeed in the majority of cases there exist alternatives as to which doctor to address, however this can be considered potentially worrying situation.

There were no complaints with regards to discrimination in accessing health services in 2005, although in previous years several cases have been publicised. In one case the family claimed that they had tried to call an ambulance for a very sick little child but did not succeed for several hours. When they started speaking Estonian to the dispatcher the ambulance was sent immediately. Such behaviour caused rather serious damages to the child’s health who had to stay in intensive care for several days and undergo a long recovery due to the fact that medical aid had arrived late.

There is no data available with regards to the difficulties of Roma community representatives in access to healthcare.

IV.v Policing and racial profiling

There are no major incidents or data with regards to unequal treatment in access to justice or relative to the police. Exercising racial profiling as such is not widespread. However, great concern can be extended to the popular idea of collective responsibility of ethnic non-Estonians for the majority of crimes and disorders in the State. It can be considered to be a rather normal practise among journalists and in some cases even authorities to underline that some action, especially of a criminal nature, has been committed by a Russian-speaker, whereas when the same action is done by an Estonian-speaker the ethnicity is omitted from the report.

In 2005, one State official in an interview with a foreign journalist stated that: “Russians residing in Estonia are criminals, prostitutes and drug addicts”\textsuperscript{46}. We also have reasons to be worried about racial profiling of NGOs run by minorities acting to support integration, culture and the rights of national minorities in Estonia. In the Security Police Board of Estonia’s 2004 Annual Report, prominent minority NGOs were claimed to be run and advised by authorities of the Russian Federation.\textsuperscript{47} This report was forwarded to the local media and international organisations. However, according to our information these claims have no proven grounds.

IV.vi Racist violence and crime

Racist crimes cannot be considered to occur very often in Estonia. Most of the incidents that have been registered fall under the scope of Article 151 of the

\textsuperscript{46} LICHHR has a tape that has been recorded with the permission of that authority
\textsuperscript{47} Kaitsepolitsei, Aastaaraamat 2004, Tallinn: KAPO
During the period September 2004 – July 2005 the Security Police started at least one investigation on the basis of article 151 (2). Article 151 has been applied several times during 2005, however never with regards to violence. Two of the investigations were related to Internet and media. One with regards to comments to a newspaper article posted on the Internet. The other one with regards in an article published in the local daily Eesti Paevaleht on 4 August 2005. The article used extremely hostile expression towards local ethnic Russians.

One of the most known and shocking of cases took place during the night of 1-2 April 2005 when the walls of the staircase of a block-of-flats in Tallinn in the district of Lasnami, where the majority of dwellers are Russian-speaking, were painted with graffiti of a rather offending content: “Why did Germany not win (in 1943)?, F****** Russians,” and other phrases, some untranslatable. The local police started investigations on the basis of Article 151 (1) of the Penal Code.

Another rather publicised case received a decision in August 2005. Tallinn City Court found a 23-year-old man guilty of a racist act. It was the first case initiated against authors of racist and xenophobic comments in news and articles posted on the Internet. During 2003/2004 the accused published comments which were explicitly hostile towards Jewish and Black people. He was convicted under Article 151 (1) of the Penal code and sentenced to a fine of 192 EUR (3,000 EEK). His appeal to the Tallinn Circuit Court was unsuccessful.

During a sociological study in Tallinn, questions regarding violence between ethnic Estonians and non-Estonians were asked. No timeframe was given, therefore a rather high percentage of incidents were reported. 59.1% among Estonian-speakers and 47.7% of Russian-speakers said “no, but I have heard about such incidents”; 18.6% and 18.3% respectively said “I have been a witness”; and 6.3% and 6.6% respectively aid “I have been a victim”.

There is a lack of data with regards to violence against Asians, Africans and others as the majority of migrants are of European origin. No special studies have been carried out on Islamophobia, anti-Semitism or local Muslim communities. Manifestations of anti-Semitism in Estonia are rather rare when not taking into account comments in articles on the Internet and graffiti mentioned above, although the Holocaust is still not being officially accepted and discussed. A positive step was made however in May 2005 when a monument to Holocaust victims was placed in Klooga on behalf of the Government. During the official

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48 Karistusseadustik, RT I 2004, 46, 329
49 Security Police Board; written communication no. 21 AT of 12 August 2005
50 Police Board; written communication no. PA 4.4-20.2/3384 of 25 August 2005
51 Pohja Politseiprefektuur, Ida Politseiosakond, written communication no. PHJ 11.4-1.13/52 of 26 July 2005
52 Daily Postimees, 27.09.2005
53 LICHR and Saar Pool; Sociological study in Tallinn, September 2005
opening, the Prime-minister Andrus Ansip apologised for those Estonians who participated in the massacre of the Jewish people.\(^{54}\)

In the Security Police’s 2004 Annual Report, political radicalism is considered to be marginal. The number of skinheads is rather small in Estonia. There were no reports about skinheads in the media in 2005.

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

There is no data available about cases of discrimination or racism in access to goods and services in the public and private sector from Estonian public institutions. However, according to the data provided by the Legal Information Centre for Human Rights retrieved from the anti-discrimination hotline during 2005, there were 82 communications from persons who claimed they have been unequally treated in the service sphere due to the language they used and 132 communications about the absence of information in the Russian language related to services and goods.\(^{55}\)

Moreover, during a sociological study in Tallinn in Autumn 2005, both Estonian and Russian-speaking persons were asked if during the last three years they had experienced unequal treatment because of their nationality from various service and goods providers. The results identified that 28.8% of non-Estonians had experienced unequal treatment in shops, supermarkets, markets; 9.9% of respondents in restaurants, cafeterias and pubs. Among ethnic Estonians, this data has been respectively 12.3% from goods providers and 5.8% from service providers.\(^{56}\)

Although this data proves that cases of unequal treatment in the access to service and goods can be brought, it is rather hard to obtain justice as the Estonian national legislation lacks provisions applicable to discrimination in other spheres than employment. Indeed it is possible to submit a complaint to the Chancellor of Justice who has mandate to deal with such cases.\(^{57}\) During 2005 however, the Chancellor of Justice received only one complaint where discrimination in access to goods and services was claimed. The procedure was initiated, however due to the fact that the violator refused to participate and the case was closed. According to Estonian law, article 357, the Chancellor of Justice can only solve a problem in the framework of the so-called conciliation procedure, the aim of which is to reach an agreement between two parties. In the event that one of the parties (violator) refuses to participate, the procedure will be stopped by the Chancellor and can be decided on only by the court.

\(^{54}\) Government Press Office, 08.05.2005
\(^{55}\) LICHR, Database of the anti-discrimination hotline, 2005
\(^{56}\) LICHR and Saar Pool; Sociological study in Tallinn, September 2005
\(^{57}\) Oiguskantsleri seadus, RT I 1999, 29, 406; RTI 2003, 23/142
\(^{58}\) Oiguskantsleri seadus, RT I 1999, 29, 406; RTI 2003, 23/142
The case mentioned above concerned two Russian-speaking women who entered a bar in the evening, placed an order and occupied a table. At the same time they were approached by two guards who asked them in Estonian to leave the premises. Women asked the guards to repeat it in Russian, however the guards refused saying that in Estonia they are not going to speak Russian. One of the ladies asked why they should leave and assumed that it was because they were Russian. The guard replied in Russian that it was the reason. The women had to leave.\textsuperscript{59}

As the Chancellor of Justice procedure failed, the case was taken to the court based on violation of Article 12 of the Constitution of Estonia\textsuperscript{60} prohibiting any discrimination and noting the goodwill of the State to fulfill the Race Directive. However, the women later refused to continue with the case.

Another rather worrying situation applies to medication\textsuperscript{61}. According to The Language Act\textsuperscript{62} the annotations and instructions for use of various goods should be in Estonian and translation into other languages are not obligatory by law, therefore it is for the owner to decide to use translation or not. In the majority of cases the medicines do not carry annotation in Russian, which makes them sometimes even dangerous for the users provided they are not proficient in the Estonian language. An especially vulnerable group is the elderly who, due to the age, are unable to study the language which before 1991 was not obligatory in the country.

IV. viii Trafficking in human beings, prostitution

Trafficking in human beings and prostitution has become a rather serious problem for Estonian society and especially among the Russian community. There is no official statistical data on how many persons and especially women and girls are trafficked from Estonia annually. Very often a number of 500 per year is being mentioned, however this is unofficial data. According to the latest IOM report for the year 2004 (prepared in 2005) during the period 2001 – 2005 104 victims of trafficking were identified, however this data considers only those women who have participated in completed criminal cases or those still awaiting the decision of the court.

Although there are no statistics regarding the general number of victims, we have reason to assume that trafficking in human beings has a rather minority-related face. According to the last IOM report, ethnic non-Estonians are more vulnerable to becoming a victim of trafficking due to a number of reasons\textsuperscript{63}. Social instability of certain regions of Estonia such as Ida-Virumaa, where the minority population

\textsuperscript{59} LICHR, database of the anti-discrimination hotline, 2005  
\textsuperscript{60} EV Pohiseadus, RT I 1992, 26, 349  
\textsuperscript{61} LICHR, database of the anti-discrimination hotline, 2005  
\textsuperscript{62} Keeleseadus, RT I 1995, 23, 334  
\textsuperscript{63} Trafficking in Human Beings for Sexual Exploitation. An analysis of the situation in Estonia, IOM, 2005
constitutes a majority (up to 94% of the population are Russian-speakers). A higher rate of unemployment and lower level of income, accompanied with rather discriminatory practices, forces young people and in some cases older generations to go to work abroad without any knowledge of local legislation, language etc., which makes them potential victims for traffickers. According to data available from Norwegian NGOs, the majority of victims of trafficking they have met with are Russian-speakers from Ida-Virumaa.64

64 From s communication with a representative of the Norwegian police.
V. Assessing the response

V.i Anti discrimination

The Estonian legal system has undergone a rapid and important change since the beginning of 2004. Aimed at harmonising the national legislation with the main requirements of the acquis communautaire (rules and regulations for membership of the European Union), important definitions and principles have been addressed. Unfortunately, neither of the Directives (2000/43/Ec, 2000/78/EC) have been transposed to their full. The main gaps can be identified in a relatively weaker provision of the shift of the burden of proof (the Directive uses the word “to prove” (art. 8) whereas the Estonian legislation uses the word “to clarify” or “to explain”. Regrettably, the national legislation understands “harassment” only in cases of subordination, which is also not in line with the Directives.

Moreover, national legislation does not have any legal provisions with regards to housing, no related provisions in education, social protection and advantages, access to publicly available goods and services, housing and the concept of victimisation as such is still lacking. Moreover, it is regretful that there are no provisions in the national legislation that would regulate unequal treatment in areas other than employment.

A great concern regards the fact that none of the state bodies are responsible for gathering information and maintaining data about discriminator related cases a strong public campaign run by the State itself is clearly missing. The work of the Equality Body (Chancellor of Justice) can be assessed as rather positive, the staff are not only helpful but involved in various anti-discrimination campaigns and activities of civil society where they are often invited as experts.

V.ii Racist violence and racist crime

In general, it is possible to assess that existing national legislation aimed at combating racist violence and crimes is working on practise and provides for a possibility to gain justice and redress for those whose rights have been violated. The practice of the police and courts can serve an evidence of such a tendency. The database of such crimes and court decisions can be accessed upon request, although sometimes the cases are registered with some delay. Although racist crimes cannot be addressed as very typical and rapidly emerging in local society, there are already a number of cases which have been decided on or for which investigation was initiated during 2005.
The work of radical political groups is not visible to the public, moreover none of them is in power. Neither are there reasons to assume they can improve their position in the near future.

Manifestations of anti-Semitism are very rare and are normally limited just to graffiti or Internet comments. The Muslim community did not report any violent acts against them. The leaders of the Muslim community claimed they are not aware of any religiously motivated verbal threats or abusive behaviour against members of their community.

We could identify some worrying tendencies and often inability or unwillingness of the State to deal with the rather vulnerable issue of the results of the World War II. Certain regretful incidents have already taken place with regards to this issue such as vandalising of monuments to Soviet soldiers and German soldiers. These incidents are the result of Estonians’ and non-Estonians’ perception of the outcome of WWII.

Regretfully, the State does not have any special action plan to address racist crimes and violence, which prevent not only dealing with the cases but also does not identify the official position and definition of this crime.

V.iii Counter-terrorism and protection of human rights

It is indeed very positive that Estonia has adopted a new counter-terrorism plan and joined important international alliances that will improve its capability to resist terrorism. However, we are a bit surprised to read in the Security Police’s 2004 Annual Report that they would consider political radicalism to be depicted as marginalised. Under the chapter “Protection of the Constitution Order”65, much space is allocated to organisations of ethnic Russians and Russian-speakers and include allegations that the two largest NGOs in Estonia are governed and instructed by the Russian Ministry of Foreign Affairs and that they are providing the Russian special services with information needed by them. Incidentally, such harmful allegations were solely supported by the statement that some of their projects were funded by the Russian Federation.

V.iv Integration and social inclusion of ethnic and religious minorities

Although the state is taking measures to solve many problems related to the employment of ethnic minorities, mainly through the legislation and the provision of trainings during 2005, there were no considerable changes regarding the situation of national minorities in the labour market and education. It is still true that the unemployment rate among non-Estonians is much higher than among Estonians however and the level of income is higher among ethnic Estonians.

65 Kaitsepolitsei, aastaraamat 2004, Tallinn: KAPO
The state continues to carry out integration activities aimed first of all at language training, which is believed to be the core of the problem. Lately, the State began financially supporting those undergoing language training through returning some percentage of expenses upon passing the exam. The role and support of the EU through the PHARE project aimed at encouraging Russian-speakers to undertake Estonian language training cannot be underestimated.

A number of projects aimed at raising awareness about EU policies and aims have also been carried out and supported by the European Commission and helped to better understand the values and benefits of being an EU citizen. Several successful actions in this respect have been carried out by representatives of civil society and aimed mainly at talking about such issues as discrimination, integration and awareness raising as well as capacity building of other NGOs.

Some long-term problems, often dependent on political decisions, are still pending. Among them is the large number of stateless persons residing on the territory of Estonia who due to a number of reason either do not want or cannot receive citizenship in Estonia. Stateless persons cannot fully enjoy political rights as their participation in elections is limited to municipal elections and number of years of residing in a certain municipality.

V. v Civil Society Involvement

Civil society plays an important role in combating racism at national level in Estonia. Although there are just a few NGOs working with the issue, they actively and rather successfully serve various aims. One of the key roles is to raise awareness among the public about the issue in general, but also about causes and results of racism. They initiate dialogues within society but even more significantly between society and State, vulnerable groups and key actors.

Several NGOs in Estonia are actively supporting victims of discrimination in their access to justice, providing free legal aid and representation in the courts, but also through strategic litigation and testing, often playing the role of mediator between the victim and the offender.

Another very important role played by NGOs is monitoring of the situation in Estonia with regards to racism and often reporting to international bodies as well as consultation and expert opinion exchange with officials, in many cases influencing decision-making. NGO experts are often invited to various consultation meetings and work-groups initiated by the Ministries and offer comment on State reports submitted to various international bodies.
VI. Conclusion

The situation in Estonia has been rather stable in 2005. Slow but subjective changes in the legal basis identify the goodwill of the State to harmonise national legislation with the provisions of the European Directives. There continues to be a rather strong influence of major political issues, such as attitudes towards non-Estonians. The official understanding by some high level authorities of racism as a problem related to the nearest past and neglecting other issues, constitutes a barrier, preventing more active measures such as National Action Plans, active public campaigns, responsibility towards data collection and others.

Lack of data is a serious obstacle towards thorough analysis of the situation, although the efforts made by some members of civil society should be encouraged. As such, there is a need for a detailed study of the situation with regards to the Roma community who, although of a rather low number, still need to be involved.

The activities of the equality body should be mentioned as a very positive development, especially with regards to providing expertise and participating in various campaigns and activities carried out by civil society and other actors.

The input of the non-governmental sector is rather valuable. As already mentioned, civil society has been one of the key actors in raising public awareness, collecting data and providing support to victims or those who considered their rights to have been violated.

The overall situation in Estonia can be considered rather positive, despite some negative shortcomings.
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