

ENAR

Shadow Report 2009-2010

ENAR SHADOW REPORT 2009/2010

Racism and Discrimination 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.

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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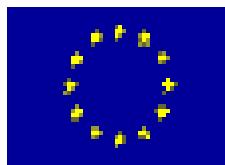
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I. Executive summary

In 2009 – 2010 (first half) Estonia made tremendous progress towards guaranteeing of implementation of the Equal Treatment Directive. The Equal Treatment Act entered into force on January 1, 2009 and it was the last step towards full compliance with the requirements of the Directive 2000/43/EC and 2000/78/EC. Indeed there was a risk that due to the economic crisis certain provisions of this Act would be abolished even before it was officially enacted. However, positively, the Regulation establishing the administration and mandate of the Gender Equality and Equal Treatment Commissioner has finally been adopted.

As in previous years Estonia continues to lack any detailed research or data on discrimination. There are in general very few surveys available, and the ones that do exist mostly relate to employment; however, they manage to identify certain trends and problems. Thus, a full assessment is difficult as there is al lack of data disaggregated by race, ethnic background, language or religion. Most problematic areas are housing, health, access to goods and services.

The number of cases brought in front of the Court or Equality bodies relating to discrimination is relatively small. The number of cases that became known to the NGOs working with equal treatment issues is also very small. In general the awareness of the people about discrimination and instruments of protection against it continues to be rather low. Very few public awareness raising campaigns have taken place.

The situation regarding employment of ethnic minorities and immigrants is rather worrying. These two groups are under serious constraints first of due to the strict linguistic regulations in many areas of working life, but also due to discriminating practices in the labour market. As a result the level of unemployment of non-Estonians in 2009 was 19%, whereas among Estonians only 11%. Yet the Ministry of Social Affairs does not consider minorities to be disadvantaged and socially excluded and does not bother to develop specific measures tackling various aspects of life of ethnic minorities in Estonia.

On a positive note, policing and ethnic profiling as well as counter terrorism measures are not serious problems in Estonia. Racially motivated crimes are also rather rare; however this could be the result of the Estonian legislator, who diminished the number of cases bringing them to the “zero” by adopting certain amendments to Penal Code. The Police are also rather reluctant to identify racist motives in minor crimes. No instructions on how to act when a racist motive can be identified or even training courses regarding racism and equal treatment for law enforcement authorities was developed or implemented.

It is not possible to say that Estonian media serves to segregate Estonian and non-Estonian societies. However Russian speakers no longer have a daily newspaper in their native tongue.

Integration measures are in place in Estonia; unfortunately they are still mainly focused on linguistic issues. However there have been developments in the socio-economical area and actions are being developed. The process would be easier and better if not for the fact that the office of the Minister of Population Affairs and Integration was abolished and the integration responsibilities transferred to the Ministry of Culture as a result of the economic crisis.

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III. Introduction

Racism and discrimination of ethnic minorities and immigrants continue to be unpopular issues among politicians, state authorities and even the media. The number of officially registered complaints both by the equality bodies, courts and even civil society members is extremely low.

It is possible to say that during the last weeks of 2008 and in 2009 – 2010, Estonia made tremendous progress in fighting unequal treatment by completing the transposition of the EU Directives 2000/43/EC and 2000/78/EC. Positively the institute of Gender Equality and Equal Treatment Commissioner was established and also received a mandate to deal with the complaints from the public and initiate its own procedures.

Unfortunately, the world economic crisis affected the situation of ethnic minorities in Estonia. In June 2009, the institute of the Minister of Population affairs, also known as minister of integration was closed down in order to balance the negative budget. And secondly, by the end of 2009, all the national Russian-speaking daily newspapers had closed down apart from the translated version of Estonian *Postimees*.

The present report covers the developments that took place in Estonia during 2009 and first half of 2010. However the author of the report also uses some data related to the earlier periods where no recent data was available and where there was no reason to assume that the situation changed since the previous 2008 report.

In the report a variety of sources are used. Unfortunately there is a clear lack of research and analysis on racism and discrimination, the number of cases reported in the Courts is also insignificant. Therefore media publications are also used, but only in cases where some research has been carried out by the journalists regarding the issues of concern. Significantly the author uses the database of the Legal Information Centre for Human Rights from the legal aid department specialising on migration issues and equal treatment and also runs hotline for victims of discrimination.

IV. Communities vulnerable to racism and discrimination

Estonia is a small European country with the population of approximately 1,323,323 persons (data for 01.01.2010)¹. Since 1 May 2004 it is a member of the European Union. This country has a complicated resent history that unfortunately still plays an important role in shaping national policies and attitudes within society.

The Estonian population is ethnically diverse and this is to a large extent one of the heritages of the Soviet period that lasted for about 50 years and had an established system of forced migration of the labour force. On January 1, 2009 ethnic Estonians amounted to 921,484 persons, the rest are ethnic minorities amongst whom the biggest group are Russians – 342,966 Ukrainians – 27,878, Byelorussians – 15,717, Finns – 10,767, the rest of the groups are less than 3,000 persons².

Ethnic non-Estonians reside in all of the country, however there are regions where they might constitute a vast majority. For example in Ida-Viru region (the North-East) non-Estonians make up about 4/5 of the total population (total number of residents 169,688, Estonians – 33,347, non-Estonians - 136,341, as of 1 January 2009)³.

Despite the fact that approximately 1/3 of the Estonian population consider Russian to be their mother tongue Estonia is a monolingual state, where Estonian is the only official language⁴. This creates a lot of tension between the majority and minority population and constitutes one of the main factors as to why some of the minority population feel alienated and unhappy.

The unemployment rate among non-Estonians is traditionally higher than among Estonians. With the crisis, the gap has become even bigger. In 2009 the number of unemployed Estonians was 11% and non-Estonians 19%⁵. The higher unemployment rate among the latter can only be partially described by the poor proficiency in Estonian, traditional concentration in certain occupations and geographically being present in economically depressed areas.

The available sociological data regarding the situation of ethnic non-Estonians in the labour market has recently been summarised by social scientists K. Kasesaru and A. Trumm as follows: "It is true that both the employment structure and income level of non-Estonians differ to a significant degree from those of ethnic Estonians. This is characterised by a higher unemployment rate and job

¹ Statistics Estonia, www.stat.ee, accessed 30.06.2010

² Statistics Estonia, www.stat.ee, accessed 30.06.2010

³ Statistics Estonia, www.stat.ee, accessed 30.06.2010

⁴ Constitution of the Republic of Estonia, 1992, [RT 1992, 26, 349](#)

⁵ Statistics Estonia, www.stat.ee, accessed 30.06.2010

insecurity, a tendency to belong to the ranks of blue collar, rather than white collar workers and a larger discrepancy between their level of education and the requirements of their position. Regardless of the general increase in incomes, the differences between the socio-economic situation of non-Estonians and ethnic Estonians have not decreased, but rather grown in recent years. A feature characteristic of this tendency is that the differences become deeper not for people with less education and lower incomes, but instead for persons with higher education and potentially higher aspirations for self-realisation⁶.

The number of **new-immigrants** and especially visible immigrants is also insignificant. For example in 2009 only 3,643 persons immigrated to Estonia, the exact number of those coming from Africa or Asia is unknown⁷.

The number of **Roma** in Estonia is relatively small. According to the latest available data of the National Census in 2000 there are only 500 Roma in Estonia⁸. However according to some other sources the number of Roma in Estonia can be as much as 1500 persons.⁹ However, even due to the fact that they are small in number no specific programme has been developed or adopted by politicians or civil society in order for them to integrate fully into society. At the same time the leaders of the community confess that according to their knowledge the rate of unemployment within their community is 90%¹⁰.

The number of **Jews** residing in Estonia is not very big as of 1 January 2009 their community consisted of 1 830 persons¹¹. During the reported period, there were no reported cases of anti-Semitism. The leaders of the Jewish community however confess that cases of verbal abuse and hate speech in public domain do take place¹².

Estonian society is rather indifferent towards **religion** in general and should not be considered intolerant towards different religious groups including Muslims. According to the last national census only approximately 1/3 of the Estonian population affiliates itself with Christian congregations. The two biggest religious groups are Lutherans, approximately 180,000 persons and Orthodox: Moscow Patriarchy with approximately 170,000 persons and Estonian apostolic orthodox church – 27,000 persons¹³. The majority of Estonians belong to the Lutheran church and the majority of Orthodox are Russian-speakers¹⁴. The number of

⁶ Kasesaru K., Trumm A. The Socio-economic Situation of Non-Estonians, in Heidmets M. (ed.) Estonian Human Development Report 2007, Tallinn, 2008

⁷ Statistics Estonia, www.stat.ee/43232, 26.05.2010

⁸ Statistics Estonia, www.stat.ee, accessed 30.06.2010

⁹ ECRI report, Estonia 2005, also http://www.expatica.com/fr/news/french-news/sarkozy-in-dangerous-game-estonian-roma-gypsy-leader_96795.html, accessed on 16.09.2010

¹⁰ http://www.expatica.com/fr/news/french-news/sarkozy-in-dangerous-game-estonian-roma-gypsy-leader_96795.html, accessed on 16.09.2010

¹¹ Statistics Estonia, www.stat.ee, accessed 30.06.2010

¹² On-line interview with the leader of the Estonian Jewish Community in Stolitsa.ee on 15.09.2010

¹³ Ministry of Internal Affairs of Estonia, data as of 01.01.2010, www.siseministeerium.ee/public/statistikilised_andmed_liikmeskond_kogudusi_01.01.2010

¹⁴ Report of the US Department of State on Freedom of Religion, 2009

Muslim as of 2000 is 1,387 persons. Most of them are rather invisible; they come from the former USSR: Kazakhs, Azeri, Tatars, Uzbeks and others. The number of Muslims that had arrived from other countries in recent years who have a stricter ethos is insignificant¹⁵.

Multiple Discrimination

Despite the fact that there is extremely limited information regarding racism in Estonia in general we assume that ethnic minorities become victims of multiple discrimination quite often.

According to the data available regarding gender and employment non-Estonian women receive the lowest wages in Estonia¹⁶. Secondly, the biggest group of unemployed persons are young people aged between 15-24 and of minority origin – 35%¹⁷. Should one assume that in general the unemployment rate among non-Estonians is much higher than among Estonians, it is reasonable to assume that young people belong to this age group and being ethnic minorities are also in a rather disadvantaged situation.

Thirdly, according to Lisette Kampus one of the main activists working with LGBT issues, non-Estonian gay people are being discriminated both for being gay and also within the LGBT community for being non-Estonians¹⁸.

¹⁵ Estonian Security Police Annual Report 2009

¹⁶ Soolise võrdõiguslikkuse monitoring 2009

¹⁷ Estonian Statistics, www.stat.ee, accessed on 30.06.2010

¹⁸ On-line interview with Lisette Kampus in www.stolitsa.ee

V. Manifestations of racism and religious discrimination

There is very little official or unofficial information about discrimination on the grounds of race and religion in various areas. The assessment of the situation is further hampered by a general lack of data disaggregated by race, ethnicity, mother tongue, religion, citizenship and legal status regarding the situation in areas such as housing, income and occupation, education, health, access to goods and services in the public and private sector. The situation is also hampered by the fact that in general very few NGOs work with human rights and even less on equal treatment and countering racism. This makes it even difficult to receive unofficial data regarding cases of discrimination.

The main body of data disaggregated by ethnicity was collected by Statistics Estonia in the last national census in 2000. The next population census will take place in 2010 -2011. Meanwhile the Statistics Bureau conducts regular surveys on various areas in Estonian society, however very few of them gather disaggregated data for categories such as race, ethnicity, language, religion and citizenship.

Official studies are also carried out by various ministries, departments, and also local municipalities. However, the first study that will focus specifically on ethnic minorities, other than on integration monitoring, has been ordered by the Ministry of Social Affairs in 2007. No new studies have been conducted in 2009 or the first half of 2010.

Importantly it is rather traditional that Estonian political leaders deny that the problem of ethnic discrimination might be problem for Estonia. In most of the cases even if they accept that such cases might be present they would never agree to accept that the problem is a large scale one. The Estonian equality bodies report a very insignificant number of complaints on equal treatment in general, but there are in particular very few ethnic discrimination cases. According to the results of the Eurobarometer poll only 41% of respondents (only citizens of EU) believed that ethnic discrimination is widespread in Estonia¹⁹. At the same time when research was carried out in Estonia in 2007, the following answers were given to the question: "Do you believe that in modern Estonia the fundamental rights of all people are protected equally and without any difference made with regards to their ethnic background?"

Table 35²⁰.

¹⁹ European Commission. Eurobarometer 71.2: Results for Estonia, 2009

²⁰ Eesti elanikke õigusteadlikkuse uuring, Tallinn 2007, Justiitsministeerium

Ethnic group	Absolutely agree	Tend to agree	Tend not to agree	Do not agree	Do not know
Estonian	40%	31%	23%	3%	3%
Russian	22%	29%	32%	10%	6%
Other	30%	43%	20%	3%	3%

Despite the fact that research was conducted in 2007, there are no reasons to assume that the situation has changed. It is also important to note that the level of awareness about fundamental rights in general and especially of equal treatment issues and mechanisms of protection is rather low in Estonia as there are very few public campaigns aimed at improving the knowledge and trust in these bodies. Non-Estonians are even less aware about these issues due to the fact that those leaflets and information packages that were prepared are predominantly only in Estonian language. This especially applies to non-Estonians, as this little material that is available is not published in Russian. This situation can also explain why there are so few claims.

V.i Employment

There is a rather limited data available regarding discrimination in employment in Estonia.

There are a few reported cases of discrimination. The number of complaints to the Chancellor of Justice, who is the local equality body and other quasi-judicial bodies, is very small. In 2009 the Gender Equality and Equal Treatment Commissioner received 49 complaints of possible discrimination, two of which related to ethnic discrimination²¹.

The level of unemployment among non Estonians is rather high compared to Estonians: 11% and 19% respectively. In the Estonian Human Development Report 2008, a special section of the report was dedicated to the assessment of equal opportunities in the labour market for non-Estonians. The scholars came to the conclusion that “young Russians with Estonian citizenship and good Estonian language skills have higher salary expectations than their Estonian contemporaries and are more demanding regarding the correlation between work and education, while they are considerably more pessimistic in their assessment of the sufficiency of their skills for finding acceptable jobs. On the other hand, the actual position of this group in the labour market indicates that, in the case of similar educational levels and other equivalent preconditions, they lag behind Estonians in labour market competition – the risk of unemployment for non-Estonians has consistently been greater than for Estonians, and, compared to Estonians, there is a noticeable gap in top positions in the job market. Therefore potential dissatisfaction with the opportunities in the labour market is brewing

²¹ Commissioner for Gender Equality and Equal Treatment; Written communication, 9 April 2010

among the younger generation. In general, it is possible to say that the ethnic split in Estonia will not decrease with the onset of the younger generation..."²²

In 2007 experts from the Tartu University published the results of a study entitled "Why Do Russians Earn So Little: Estonia during the Political and Economic Transition". The authors documented a rise of the "unexplained gap" in the salaries of ethnic Estonian and non-Estonian males. While in the early 1990s (at the time of the disintegration of the USSR) there were practically no unexplainable differences, later ethnic Estonians started to earn 10-15% more than Russians. The gap manifested itself mainly in different pay for the same work and in education levels. The unexplainable gap was particularly wide in Tallinn with its largest regional labour market in the country. The ethnic wage gap was equal for young and established workers. In the conclusions the authors of the study K.O. Leping and O. Toomet expressed the view that the gap could be attributed to discrimination in the form of entry barriers combined with low-level segregation, and to segregated social networks²³.

In 2009 – 2010 there have been several cases registered by the Legal Information Centre for Human Rights where unequal treatment of ethnic minorities could be identified. Significantly there were cases where the state itself discriminated against minority representatives, or where they provided the conditions which allowed for discrimination to foster and grow. For example, there are very strict language requirements which are very often disproportionate. For example the teachers at schools with Russian-language of instruction are required to be proficient in Estonian language to the medium level (currently B2 as minimum), however it is highly questionable if this level is really required for them to fulfil their duties. Moreover, they are under constant supervision of the Language inspectorate they organise constant checks at such schools in order to find those teachers that either have no proficiency category at all or who fail to prove their language proficiency.

At the same time state constantly changes the system of language proficiency measurement and technicalities. For example first these were Letter categories – A - F, then it was changed to a 3 level system, in 2008 into 6 levels (where practical applicability have only 4). The problem here is that during the last transition the legislator forgot to mention in the text of the legal act or in the explanation note how the previous categories will be equivalent to the new ones. This started a process that the employers would use this gap in order to get rid of the employees they would not need or request them to re-sit the exams causing additional problems.

²² Lauristin M., Vihalemm T. Summary (Quality of life and integration), in Estonian Human Development Report 2008, Tallinn, 2009, p. 101. The sociological analysis was based on official statistical data from previous years.

²³ Leping K.O., Toomet O. Why do Russians Earn so Little: Estonia During the Political and Economic Transition, Tartu, p. 29

Case:

The Russian speaking doctors from Tallinn Prison called the hotline for the victims of discrimination at LICHRI. They claimed that for the same work they were paid half of what their Estonian colleagues were being paid. These complaints have been submitted to the Court. However, both decisions were not in favour of the applicants. One Court decided that the employer could pay one of the doctors less as she failed to prove she was proficient in Estonian. At the same time there were no complaints regarding her competences. In the second case the doctor had a lower qualification and was computer illiterate. The discriminator explained the difference in salaries by the labour market conditions. He claimed that he had the right to pay non-Estonian women less as normally the salary rates of Russians are less than that of Estonians for the same work. In other words for the same work Estonians request a higher salary and it would be simply impossible to find a person eager to fulfil this kind of work for such income. The court accepted the explanations of the discriminator and approved this pay gap.

On appeal the applicants also lost as the court decided that such treatment was justified by the fact that the doctor was not proficient in Estonian. Interestingly, Estonian legislation does not have any provision that allows a lesser salary for someone who is not proficient in Estonian. In such cases the law only prescribes the dismissal of such an employee²⁴.

Despite the fact that Church and State are independent from each other some patterns can be observed in Estonia. Certain religious holidays have been transformed into state holidays by the Government of Estonia. Despite of the fact that there are in general the same number of believers in both Lutheran and Orthodox churches in Estonia, the state followed the general rule and made state holidays out of Lutheran holidays and on the dates used by this congregation. For example Christmas is celebrated on 24 – 26 of December and these dates are national holidays for everyone, whereas the Orthodox Christmas is on January 6-7 and these are working days. This also means that if one wants to go to the church it is up to the employer to allow this or not.

Until now it is possible to say that there have been no complaints regarding unequal treatment because of religion. We assume that this is due to the fact that people are used to find solutions for such cases by themselves and also by the fact that very often Russian-speakers are employed by the Russian-speaking companies and therefore compromises are available. However it is very possible that cases of discrimination based on religion might become known.

However there have been no complaints registered by LICHRI or any other NGOs during the reported period regarding religious issues.

²⁴ Database of the Legal Information Centre for Human Rights, 2009

Examples of Good Practice

Despite the fact that this example does not have an NGO origin, we consider it to be worthwhile mentioning here.

The Integration and Migration Foundation, Meie Inimesed, won a tender to support a project aimed at the promotion of multiculturalism and equal treatment among businesses. The winner, Alfa-Omega Communications, took responsibility to work with other companies and explain to them what equal treatment disregarding ethnic origin means and how to avoid cases of harassment and discrimination in the work place and to present current good practices. Secondly the presentation of various ethnic groups residing in Estonia took place. The title of the Most Multicultural Company was established. Additionally to these activities, several interventions dedicated to equal treatment at work and additional values of having multinational office have been prepared and broadcasted by one of the radio channels. Several radio programmes regarding equal treatment in the work place and values of being multicultural have been made within the tender.²⁵

V.ii Housing

The housing system in Estonia can be described as having a private and municipal domain. In the private domain there are no restrictions regarding who can purchase real estate with the only exception of foreign-border regions where the transfer of property is limited to Estonian citizens and citizens of the EU or legal bodies of Estonia and the EU²⁶. An exception can be made but only upon a written application to the local authorities by the potential buyer. The local authority will make a decision taking into consideration the positive effect the purchase may have for the area in general²⁷.

Such provision limits the rights of persons with undefined citizenship, (stateless persons) even those with permanent residence and citizens of the Russian Federation that permanently reside on the territory of Estonia. It is especially true that one of the areas with such limitations is the area of Ida-Viru (North-East) and Chudskoe Lake (Peipsi lake) where the majority of the population are Russian-speaking. For example in Narva city citizens of Estonia constitute as of 1 January 2010 only 46.13% and all the rest are mostly either citizens of the Russian Federation or persons with undetermined citizenship²⁸.

Mortgages for purchasing residential property are widely available and often at a rather preferential rates. However they are only available to those with rather high levels of income, a good credit history and stable employment. Some banks also require a permanent residence permit in order to apply for a mortgage (and

²⁵ www.meis.ee

²⁶ Kinnisaja omandamise kitsendamise seadus, RT I 2003, 23, 145, art. 3

²⁷ Kinnisaja omandamise kitsendamise seadus, RT I 2003, 23, 145, art. 3

²⁸ Narva City Population Registration Office, 2009

other loans). Some banks however offer such loans to EU citizens that are not residing in Estonia, but have a guarantor²⁹. This prevents many non-Estonians from receiving loans and improving their living conditions. While in theory there are no other specific regulations that could prevent minorities from applying for mortgages they still have less possibilities to receive such loans as they experience barriers in access to employment and it is often difficult for them to secure stability and a high income³⁰.

There is not a very well developed system of municipal housing in Estonia and they are few in number. In general it is mainly limited to orphans, who receive municipal flats on a priority basis and persons who lost their flats or houses due a fire or very bad living conditions etc. For the moment there are no reasons to assume that discriminatory practices are taking place in this domain.

During the reported period there were no complaints with regards to living conditions at Illuka reception centre (housing centre for asylum seekers) or concerning the right to housing by Roma people.

According to the data available at LICHR, the main concern regarding housing are the so called ‘unions of flat owners’ (organisations representing owners of the flats of a particular house or several houses and aiming to deal with the management of heating, water supply etc.). Most of the complaints regard the language of administration, all correspondence and paperwork is only in Estonian disregarding the needs of people who are not proficient in this language. In addition there is an absence of translation during the annual meetings. Moreover Russian-speakers are often denied the right to run to be elected to the Board of administration of those unions, especially if their knowledge of Estonian is poor.³¹ Secondly there is also some tension between the Estonian and non-Estonian neighbours when hate speech is exchanged can be also observed.

It is important to note that similar to previous years, information regarding equal treatment in access to housing is not officially collected or being specifically monitored by any NGO or public body. Therefore it is rather difficult to evaluate the scale of the problem.

V.iii Education

The situation with regards to unequal treatment in access to education continues to be one of the most unstudied and underreported areas for non-Estonians. There is no research or case studies in this regard. However, some NGOs try to bring attention to the issue of inequalities in this area. It is important to note that apart from the classical right to education we also have to deal with problems relating to the employment of kinder-garden and school teachers.

²⁹ www.seb.ee/index.php

³⁰ Estonian National action Plan for Social Inclusion 2004

³¹ Database of LICHR, 2009, 2010

It is usual to hear of situations, especially at publicly funded universities and colleges that non-Estonian students had problems with their studies because of the political affiliation of the professor for example, or due to the student's mother tongue or ethnic background. Often pedagogical staff request additional tests and translation exercises from the student of minority background, and is constantly put in an unfavourable position, and achieve lower grades than their Estonian counterparts. However during the reported period we did not manage to get any case reported mainly because students are in a rather vulnerable situation and fear the consequences of such a complaint. It is interesting to note that in some cases other staff in the universities knew about their colleagues' prejudices; however they normally did not interfere³².

At the moment 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 universities provide education in English in most of the cases master degree programmes. Private institutions are free to choose the language of instruction, and the majority use Estonian, Russian and English. Interestingly during the last number of years several private universities were invited to merge with publicly funded schools, and in all instances they used Estonian or English language of instruction, but never Russian.

During the reported period, the process of transition of the Russian upper-secondary school (grades 10-12, are not obligatory) into predominantly Estonian language (60%) continued and should be finalised by 2011. It is worthwhile mentioning that the reform of the minority education system continues to be rather unpopular among the non-Estonian population³³.

At the same time the level of Estonian language training at schools continues to be of an insufficient quality. Specialists believe that current secondary school graduates are often not very proficient in Estonian. This fact makes it extremely difficult for the pupils to follow subjects taught in Estonian in the upper-secondary school³⁴.

Many parents believe that the best opportunity for their kids to study the language begins in nursery school where Estonian is the language of instruction. However this is not always possible because of the resistance from administration, teachers and parents of Estonian kids³⁵. The latter fact can be also proved by the Integration monitoring data of 2008. It is extremely unlikely that there was a significant change since then. It was revealed then that 1/6 of Estonians would prefer that non-Estonian children attend separate kindergartens. For non-Estonians number was almost twice as high. ¼ of Estonians

³² Interview with the former student of Tallinn Technical University, 2009

³³ Integratsiooniuring, 2008

³⁴ Eesti inimvara raport (IVAR): võtmeprobleemid ja lahendused, 2010

³⁵ Ibid.

would prefer that there is a limited number of non-Estonians in the Estonian kinder-gardens, such model seemed to be appropriate only for 1/10 of non-Estonians³⁶.

From autumn 2009 all the nursery schools are to start Estonian language classes for all kids starting from the age of 3³⁷.

Similarly with the previous reporting period, there is serious concern regarding the closure of secondary schools and in particular those of Russian language instruction. It might be understandable that due to the demographic situation certain schools have to be closed down or merge with other schools; however the practice has been that if an Estonian speaking and a Russian speaking school are merged the Estonian school gets all the advantages. For example the Estonian school administration and Board of Trustees stays which means that the Russian-speaking wing of the school will not be taken into account.

This happened at the Loksa Russian Gymnasium, which from 1 September 2010 merged with an Estonian school and the language of instruction for thereon was Estonian³⁸. This is despite the fact that the Russian building was initially constructed to have school in it, was freshly renovated, warm and convenient, with its own sport complex etc. However, after the merger both schools were placed in the Estonian-speaking school despite the fact that this building is rather disadvantaged for the purposes of school, is in need of repair and in general is not very suitable as a school building. Such a decision can be considered to be an additional psychological pressure for the children.

Examples of NGO Good Practice

1. In 2009 – 2010 the Legal Information Centre is implementing a project (supported by the Russian Myr) that aims to improve the knowledge of kinder-garden and secondary school teachers about their rights and raise awareness of the parents about the added value the Boards of trustees can bring, particularly in highlighting to the public the problems of Russian-speaking schools. Politicians and authorities are invited to discuss the issues of concern, explain what is currently going on and how to overcome difficulties that arise with regards to the transition to the upper-secondary school in Estonian language of instruction. As part of the project a survey is being carried out, along with meetings and international conferences. The project is yet not finalised, however the interim evaluation of it is rather positive.

³⁶ Integratsiooniuring 2008

³⁷ RT I, 05.05.2008, 18, 124

³⁸ Otsus nr. 8, Loksa Linnavalikogu, 18.02.2010

2. Another example of good practice that is worth mentioning was carried out by a quasi-official organization. The Integration and Migration Foundation Meie Inimesed (in previous year reports mentioned as Non-Estonians Integration Foundation) continued its activities under the project that started in 2007 aiming to develop a system of school education availability for the new-immigrant children, especially whose mother tongue is not Russian. A lot of useful activities and materials have been prepared before 2009. In addition, in 2010 a web portal www.teretere.eu (translated as Hello Hello) was launched. The portal is aimed at school teachers, education workers and parents of the children who study together with immigrant kids. The educational materials, legal acts that might be applicable, place for the experience exchange is being provided as well as other useful information for those who wish to engage in educating and integrating young new-immigrants.

V.iv Health

According to the Estonian Constitution all citizens have the right to healthcare³⁹. 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 ethnic background⁴⁰. Unfortunately discrimination in access to health is not monitored in Estonia either by official bodies or NGOs. Therefore it is extremely difficult to make any precise statements in relation to this.

One of the main issues of concern in this area continues to be the language of communication between the patient and medical personnel. According to the existing regulations any member of personnel should speak and understand Estonian. Any other language, including Russian, it is not obligatory. The requirement to have some knowledge of foreign languages is decided by the Head of the hospital.. The main concern regards young specialists as they generally belong to the generation who cannot speak Russian at all as little importance was given to this.

The existing system does not envisage having interpreters present at meetings. The Head of the Board of the Tallinn Union of Doctors and Ministry of Social affairs is convinced that if the patient is not proficient enough to explain in Estonian his/her health problems they should take relatives, friends or colleagues with him/her in order to be better understood. Toomas Kariis, Head of the Board of the Tallinn Union of Doctors claims that "it is not right to blame the doctor if you are not able to receive medical services in a foreign language. It should also be the responsibility of the patient that is not proficient in Estonian to be understood by the doctor. He or she, for example can try to use English or

³⁹ Constitution of Estonia, 1992, art. 28

⁴⁰ www.haigekassa.ee

German as an alternative, especially because young doctors are rather proficient in these languages”⁴¹.

There are several interesting cases in Estonia regarding the right to health. Below two examples are given. It is not possible to say that such cases are frequent occurrences, however they become known from time to time.

Case 1:

Dmitri is a Russian-speaking man, whose knowledge of Estonian is rather basic. He went to a doctor in one of the main hospitals in the capital and started describing his problem in Russian as his knowledge of Estonian is insufficient. The doctor rudely requested the patient to either speak Estonian or leave the room. When a friend of the patient who could speak Estonian entered the room in order to provide interpretation the doctor became more polite, however when the friend mentioned the patients ethnic background, the doctor told hem to seek medical advice not from him, but from a psychiatrist. The hospital where the case took place at first refused to comment, but later expressed its doubts that the incident occurred. It was also highlighted that the patient should have complained to the hospital in order to seek a remedy and not to journalists directly⁴². In this case it is also important to mention that this doctor was a rare specialist and it is difficult to find another doctor that specialises in the same field. Moreover the employers of the registry of the hospital mentioned to the journalist that this is not the only case where this doctor discriminated against his patients on the basis of language⁴³. The doctor was never punished for his actions; moreover the hospital blamed the patients for being rude. The victims of the doctor were planning to complain to the court, however it is not known if they did.

Case 2:

A 14-year-old Russian-speaking boy was admitted to the trauma-department at one of the hospitals in Ida-Virumaa (predominantly Russian-speaking region of Estonia) due to an injury he received. The boy was not able to reply to the questions of the doctor in Estonian. The doctor took the boy's Estonian passport and threw it into the garbage bin saying that if the boy is not able to communicate in Estonian then he does not deserve to be the citizen of Estonia. The parents of the boy complained to the Police claiming that the doctor had no right to behave in such a manner. However, the police did not consider this action to have a criminal motive. They did not consider the passport to be a symbol of the state. They also pointed to the fact that the passport was not damaged when it was thrown in the garbage bin⁴⁴. The family however are going to continue with this case and a complaint has been lodged with the State prosecutor's office. As a result of the initiated procedure the doctor was fired from the hospital.

⁴¹ www.stolitsa.ee, Medice, cura te ipsum!, V. Jyrmann, 11.09.2009

⁴² <http://rus.delfi.ee>, 02.11.2009

⁴³ <http://novosti.err.ee>, 05.11.2009

⁴⁴ Den za dnem, Prokuratura ne chitajet, no schitajet, E. Kapov, 23.10.2009

V.v Policing and ethnic profiling

Policing and ethnic profiling cannot be considered to be serious problems for Estonia. There have never been any major studies carried out in these areas by any organisation and generally no NGO is focusing on these issues. However, racial profiling may exist, especially regarding visible and religious minorities when both Russian and Estonian-speakers show rather low levels of tolerance towards each other and there is a high level of prejudice and stereotypes within these communities.

A particular issue of concern continues to be the stereotype that ethnic minorities are collectively responsible for the majority of crimes and disorders in Estonia and recently they have been blamed for the economical crisis and the high level of unemployment.

Another rather worrying trend is the ethnic profiling and harassment of human rights defenders who work with ethnic minorities and related issues such as anti-fascism, support for Russian-speaking schools, non ethnic speaking Estonian candidates or Russian supporting parties for the European Parliament elections, and those who present experts whose views are different from the official Estonian rhetoric on media, history, political sciences and culture from the Russian Federation to participate in the publicly organised discussions in Estonia. For several years they have been under special surveillance from the Security Police and are constantly mentioned in its Annual reports, usually under the heading, threat to the Constitutional order⁴⁵. In most of the cases these statements are unbalanced, unproved and at times strange. Such information however is being widely disseminated and used both by authorities and other civil society members predominantly belonging to the majority and this serves as a tool to discredit those human rights defenders at the international level.

At the same time very little attention is paid to skinheads and in general their activities are not considered as threatening public order or the safety of persons who are likely to become their victims⁴⁶.

Certain trends can also be seen with regard to the operational financial support given to sport clubs and societies by the Ministry of Culture. Theoretically, any established sports club has the right to apply for such funding. Surprisingly for several years some clubs that have predominantly non-Estonians among their members although well established and who have high sporting achievements (including winning medals at European and World Championships) fail to receive such funding. No reasoning for the refusal has ever been officially received. At the same time, smaller and less developed clubs, who have no certified trainers, and rather low sporting results which are predominately made up by Estonians receive such support.⁴⁷

⁴⁵ Annual report of the Security Police of Estonia 2007, 2008, 2009

⁴⁶ Annual report of the Security Police of Estonia 2008, 2009

⁴⁷ Interview with the president of the Estonian Taekwondo Federation, 25.06.2010

V.vi Racist violence and crime

During the reported period the State Police Department reported no cases initiated under the Art 151, 152 of the Criminal Code that prohibit any incidents of hate crime⁴⁸.

It should be also be noted that no public institution keeps a statistical database of cases of racist violence and neither do the NGOs (with the exception of the Legal Information Centre for Human Rights; however it registers no more than 3-5 incidents a year).

In general one cannot argue that Estonia is an extremely racist country where ethnic minorities and immigrants often become victims of racist violence and crime. Indeed such cases do take place, but when they do, they are generally not reported. Most of the cases are limited to non-violent harassment (verbal abuse, hate speech). In Estonia, this is not seen as an offence by ordinary people and therefore it is not reported to NGOs or to the police. This was also confirmed in the 2008 study by the EU Agency for Fundamental Rights (EU-MIDIS). This study registered both a low victimisation rate for Russians in Tallinn and the problem of underreporting incidents of assault, (including those that are ethnically/racially motivated), threats, and serious harassment⁴⁹.

Nevertheless, for several years the U.S. Department of State argued in its information sheet that in Estonia “[r]acially motivated verbal harassment and, on occasion, physical assault of U.S. citizens and other nationals of non-Caucasian ethnicity has occurred”⁵⁰. From time to time the media also report cases of ethnic/racist violence.

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

Equal access to goods and services is regulated by the Equal Treatment Act that entered into force on 1 January 2009. However no cases of unequal treatment in this area has been registered by the Equality Bodies or dealt with by the Estonian courts. For the moment there is also no official data or research that would focus on such issues or would provide us with any information.

The Legal Information Centre for Human Rights registered several complaints from prisoners with regard to the language of communication with prison contact persons and complaints regarding the fact that only a few are allowed to attend Estonian language classes whereas there are many who would like to

⁴⁸ Ministry of Justice, Information provided at
<http://www.just.ee/orb.aw/class=file/action=preview/id=49210/Kuritegevuse+andmed+2003-2009.xls>
(01.07.2010)

⁴⁹ EU-MIDIS - European Union Minorities and Discrimination Survey, Main Results Report, European Union Agency for Fundamental Rights, Vienna, 2009, p. 188

⁵⁰ U.S. Department of State, Bureau of Consular Affairs, *Country Specific Information: Estonia* (10 January 2010), available at http://travel.state.gov/travel/cis_pa_tw/cis/cis_1112.html#safety (01.07.2010).

participate. To the best knowledge of LICHР no official enquiries or actions have taken place in relation to this⁵¹.

From time to time the media covers cases of discrimination in access to goods and services. Most often those cases relate to language used by service providers, similarly with previous years there are cases when clients refuse to receive services because of the ethnic origin of the service provider or his/her bad command of the Estonian language.

Case 1:

On 18 April 2009 an advertisement was placed on the entrance of a rather busy pub "Lost Continent" in Tallinn informing patrons that from now on only clients speaking Estonian or English will be served in this pub. According to the manager of the pub they placed this notice after an incident occurred where a group of drunk Russian-speaking men tried to speak with the waitress in Russian and because she could not understand them were very aggressive and as a result even committed a small arson attack in the toilet. The manager considers his actions justified due to fact the waitresses do not speak and are not obliged to speak Russian and therefore it was wise to inform clients about this immediately. He also added that so far they were not able to recruit a person who was able to speak Russian⁵². This is interesting because of the crisis there are many people speaking all three languages who are eager to work as waiters.

Case 2:

A taxi driver called the emergency number 110 in order to report an incident where a client refused to pay his fare. First he was promised a patrol, but when they did not appear and when the client tried to escape the taxi driver was forced to call once again and then a third time. When he called for the third time, the dispatcher told him to speak Estonian and added that he should do so if he is a certified driver as this is one of the pre-requirements for receiving a licence. The client used the possibility and ran away. According to the police this situation took place due to the dispatcher's bad command of Russian and unfortunately others who were more proficient were engaged at that moment. As a result, the dispatcher received some kind of a punishment and the press-secretary of the Pohja Police department informed the agent that she was acting against her duty instructions⁵³.

V.viii Media, including the internet

Media plays a very significant role in shaping public opinion in Estonia, especially among the older generation (print media) and youngsters (internet media). As a result the media is used by various political groups to promote their ideas and visions. In fact it is possible to say that all sources of media are politicised and

⁵¹ Database of the Legal Information Centre for Human Rights

⁵² ME-Estonia, 24.04.2009, Not in Russian (Tolko ne po-russki), by Roman Starapopov.

⁵³ www.stolitsa.ee, 06.10.2009, 24.11.2009

usually are affiliated with concrete political parties. Therefore the media primarily reflect the visions of these parties.

Most of the media sources are in Estonian and some media source are available in Russian. However there is one regional English newspaper “The Baltic Times”. Radio and TV are also available in both languages. Cable TV channels, broadcasting main channels from Russia or international news music and research programmes are widely available in big cities from several Cable TV companies.

In 2009 the second state channel was launched, it was advertised as the channel that would be broadcasting news and programmes in Russian with Estonian subtitles. The idea to create this source of information became popular after an incident in April 2007 – the so called “Bronze night events” when mass riots took place predominantly in Tallinn. These riots were the result of a decision by the government to replace the monument of the Bronze soldier and all those who lost their lives fighting against the Nazis. It was generally accepted by the ruling political forces that the Russian speaking minority spend too much time watching the news from Russia which is purely anti-Estonian propaganda and therefore have little opportunities to know the real Estonian situation. At the time of riots the leading politicians also expressed an idea to completely prohibit cable channels broadcasting Russian programmes in order to minimize the influence of anti-Estonian sentiment that are believed to be prevalent in Russia. It was not done at that time due to the requirements of the Framework Convention on Protection of National Minorities⁵⁴ to which Estonia has ratified.

The new channel would substitute the programmes and news from cable TV channels to the local ones. However it does not really seem that this is happening, primarily because those programmes are not interesting and unbalanced and in most of the cases propagate the visions of certain political parties.

In the course of 2009 the Russian-speaking minority lost almost all national daily newspapers, with the only exception of *Postimees* which is a translated edition of Estonian *Postimees*. The official version of why this happened is indeed the result of the crisis, however it is also suspected to be political, because the content on the internet news portals changed substantially during this time. The majority of the news was from the point of view of the majority leading party, not taking into consideration the views of the minority. For example, when the Fundamental Rights Agency published its annual report it was mentioned that in Latvia racial discrimination does take place, however this was not reported by the Estonian media⁵⁵.

⁵⁴ <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm>

⁵⁵ FRA Annual report 2009

No new studies on the content of the media took place during the reported period and there are no reasons to assume that the situation changed significantly since 2008. In general it is possible to say that the media continues to be rather indifferent towards the problems and life of minorities, cases of unequal treatment and racism. Estonian speaking media continues the practice of not using minorities for their expert opinions or as a source of information even in situations directly relates to them.

Comments on internet portals such as blogs and in response to news articles continue to be worrying. These comments are often offensive in nature and can be described as hate speech.

Examples of NGO Good Practice

1. Within the project carried out under the EPIM programme, supported by NEF, LICHR produced quite a number of publications that would cover the issues of equal treatment and racism in Estonia, but also very positively initiated several articles talking about new-immigrants in Estonia, the culture of their countries and indeed the main problems they had to overcome in Estonia.
2. The youth association, Generation, in cooperation with Youth Union Siin, launched an Intellectual Club which is meant for younger people; however, participation of interested persons is strongly encouraged. The aim of the Club is to involve younger people in discussions concerning active citizenship and help them develop their own opinion about democracy and processes taking place in the Estonian Society. For the meetings politicians representing various political views, including high rank politicians such as MEPs, Local Government members, experts and opinion leaders are invited. One of the issues of concern at these meetings has always been integration, racism and unequal treatment. The meetings take place on a monthly basis. This is a voluntary initiative that is currently not receiving any funding.

VI. Political and legal context

In 2009 and in 2010, there was a lot of emphasis placed on the promotion of the equal treatment principle in Estonia. This is mainly due to the fact that the Equal Treatment Act⁵⁶ is being implemented in Estonia at present. However, very few new legal developments took place during the reported period; the political discourse regarding racism in Estonia has also been rather reluctant and calm.

Unfortunately there have been several regretful developments during the reporting period as well. Starting from June 1, 2009 the Bureau of the Minister of Population Affairs also known as Minister of integration was closed. This was blamed on the crisis and the need to diminish state expenses.

Certain anti-terrorist measures have been prepared and introduced into the Penal Code. These provisions were under the discussion for the past 2 years or starting from the Bronze night events.⁵⁷

In 2009 the Municipal election took place in Estonia, positively the activeness of the minority population was rather high and resulted in the fact that in the areas where the number of ethnic minorities is significant the Centre Party took the majority. This party is famous for being most pro-minority among all the parties who are in Parliament.

Starting from 2009 the Non-Estonian's Integration Foundation merged with the Migration Foundation. They have started a 'new life' with several interesting projects aiming at third-country nationals residing in Estonia.

VI.i Anti discrimination

Similarly with previous years, the discussions on anti-discrimination, and racism have taken place, mainly in relation to the Equal Treatment Act that finally entered into force in January 2009. In addition, the mandate of the Gender Equality and Equal Treatment Commissioner was established whose office was established under the Act. However a specific regulation was needed that would

⁵⁶ RT I, 2008, 56, 315

⁵⁷ Events that took place in Tallinn 27 – 29 of April. 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. 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 hundreds were severely injured, one 20-year-old man stubbed to death. 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.

enable it to operate efficiently. Meanwhile there were serious political doubts if this institution should exist in general or whether it was just a fast decision of the legislator aiming to comply with the EU requirements.

Indeed there have been new discussions on improving the Language Act⁵⁸, to make it even stronger, especially in relation to the usage of the language; however, so far these discussions have not amounted to any concrete legal acts.

No specific public awareness raising campaigns have been carried out by the authorities in the reporting period. They have indeed participated in various activities carried out by the civil society; however it is becoming more and more difficult to get representatives of the Ministries in particular, to participate in seminars and conferences as speakers.

Amnesty International continued to pay special attention to Estonia, particularly in relation to its minority issues as well as the harassment of its human rights defenders⁵⁹.

Legal developments

On 1 January 2009 the Equal Treatment Act⁶⁰ entered into force. This was one of the most important developments that took place during the reported period. The act has been long awaited and served to be the last step in harmonising Estonia's equal treatment legislation with the requirements of the Directive 43/2000/EC and Directive 78/2000/EC.

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

- access to occupation, employment and self-employment, including promotion, both in the public and private domain;
- access to all types and levels of vocational guidance and training;
- employment and working conditions, including dismissal and pay;
- membership in 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 housing⁶¹.

However, protection against discrimination on the grounds of religious affiliation, age, disability and sexual orientation is only covered in relation to employment⁶².

⁵⁸ RT I, 1995, 23, 334

⁵⁹ Amnesty International, Report 2009, State of the world's human rights. Estonia

⁶⁰ RT I, 2008, 56, 315

⁶¹ RT I, 2009, 11, 67, art. 2 (edited version of the initial RT I, 2009, 11, 67)

⁶² RT I, 2009, 11, 67, art. 2

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 Contract Act⁶³ and Public Service Act⁶⁴. Significantly, the statute of limitations in cases related to equal treatment is only 1 year from the time the applicant suffered a violation,⁶⁵. Normally, in civil cases the statute of limitations is 3 years.

In 2009-2010 a case was brought that could become the first precedent challenging the equal treatment provisions in the area of employment, and where the victim had at least 5 different episodes of discrimination from the same employer. However, he decided to submit a complaint to the court only after he was fired. Due to the diminished statutes of limitation the case was rejected by the court. Nevertheless, he managed to submit an appeal regarding his employment relations, but not from the perspective of equal treatment violations, but in relation to unpaid bonuses as the statute of limitations in relation to this was still running⁶⁶.

Another critical aspect of the Act was the requirement to carry out awareness raising and information campaigns on equal treatment on any of the grounds contained therein.

Unfortunately the Estonian legislator has failed to provide for a comprehensive list of responsibilities for the various actors of their informative activities. The current provisions are rather vague:

1. The employer as the person applying and developing the principle of equal treatment should: 1) undertake measures needed to protect the employee, 2) inform the employee about his rights and obligations set out in the Equal Treatment Act using various methods⁶⁷.
2. The applicability of the principle and its evolution in the sphere of education and training: Educational and scientific institutions and other institutions dealing with education should not undermine the importance of the development of the equal treatment principle⁶⁸.
3. Responsibilities of the ministries while applying and developing the principle: Each ministry within its area of administration should monitor the implementation of the Equal Treatment Act and maintain partnerships with other institutions and persons while developing the principle⁶⁹.

⁶³ RT I, 2004, 86, 584

⁶⁴ RT I, 1995, 16,228; 2008, 8, 57

⁶⁵ RT I, 2009, 11, 67, art. 25

⁶⁶ Kestler case, LICHR Database 2010

⁶⁷ RT I, 2009, 11, 67, art. 12

⁶⁸ RT I, 2009, 11, 67, art. 13

⁶⁹ RT I, 2009, 11, 67, art. 14

The Equal Treatment Act also established the institute of the Gender Equality and Equal Treatment Commissioner⁷⁰. In fact the Gender Equality Commissioner had been operating since 2005 and was established by the Gender Equality Act; however the new Act, despite the lobby of women's movements of Estonia had widened its mandate and included other grounds of discrimination. One of the tasks of the Commissioner is to deal with the complaints from people who believe they are being discriminated against as well as providing assistance in submitting complaints if needed⁷¹.

Special regulation of the activities and the mandate of the Gender Equality and Equal Treatment Commissioner were only adopted on 10 June 2010 (almost 1,5 years after the Act entered into force)⁷². However, happily most of the recommendations made by the civil society with regard to the activities and mandate of the Commissioner have been taken into consideration.

Unfortunately, the Estonian legislator still fails to regulate the provisions regarding equal treatment and linguistic requirements. Art. 36-1, Chapter 3 of the Public Service Act clearly states that "Unequal treatment because of the language proficiency should not be considered discriminatory if such treatment is approved by the current Language Acts"⁷³. International practice however often regards linguistic discrimination as indirect discrimination. In Estonia this issue is unfortunately too politicised and is based on political consensus, it is believed that this will not change in the near future. According to the political decisions language requirements in a particular situation will normally be considered legitimate and reasonable, even if the proportionality of the actions might be questioned.

No changes to the mandate of the Chancellor of Justice has been made or even discussed. When dealing with cases of discrimination this equality body can only undertake a conciliation procedure. As practise shows, starting from 2004, no such procedures have been undertaken. In all the cases where the Chancellor of Justice offered his mediation, the "violator" refused to participate.

In its Draft Concluding observations Committee on the Elimination of Racial Discrimination (CERD) highlighted its concern regarding the fact that neither the Chancellor of Justice nor the newly established Gender Equality and Equal Treatment Commissioner comply with the Paris Principles and hoped that Estonia will find a way to empower its equality bodies to conform⁷⁴.

⁷⁰ RT I, 2009, 11, 67, art. 15

⁷¹ RT I, 2009, 11, 67, art. 16

⁷² RT I, 18.06.2010, 33, 170, Regulation nr. 71

⁷³ RT I, 1995, 16, 228; 2009, 36, 234

⁷⁴ CERD/C/EST/CO/8-9, C-10

VI.ii Migration and integration

Similarly with the previous reporting periods, it is possible to say that there was generally no or very limited debate on migration issues. Estonia is not considered to be a very attractive country for immigrants and therefore the numbers of migrants in Estonia are quite insignificant. In most of the cases people arriving in Estonia use this country as a transit country and are heading further north.

In addition, the public are not very keen on accepting immigrants and this applies both to Estonian and Russian-speakers. It is possible to say that both groups are very intolerant especially towards visible migrants.

The state however, is gradually developing a system of accepting immigrants. For several years the Integration Foundation “Meie Inimesed” (Former Non-Estonian’s Integration Foundation and Migration Foundation) is in charge of developing materials and training mentors for the children of immigrants i.e. those who arrive in Estonia and do not speak either Estonian or Russian. Secondly, they are now implementing new projects that aim to develop orientation courses for immigrants that focus on educating them about Estonian history, culture, traditions, legal system etc, and also provide free language courses for third-country nationals⁷⁵.

The main document that deals with the integration in Estonia is the Estonian Integration Programme 2008-2013 (*Eesti Lõimumiskava aastateks 2008-2013*)⁷⁶. The document provides for goals and objectives of official and non-official bodies in the field of minorities’ integration. The Programme was adopted after public consultations with civil society in 2008. The programme will be implemented in three basic areas of social life: educational-cultural, social-economic and legal-political integration. The programme will put more emphasis on social and economic aspects of integration as compared with the previous national programme “Integration in Estonian Society 2000-2008” approved in 2000. As regards social and economic integration, the goal of the new integration programme is to guarantee equal opportunities in the labour market for all of Estonia’s residents regardless of their ethnic background, mother tongue or place of residence⁷⁷.

Yet, a lot of attention is paid to the language training and little or no attention is paid to other goals. However, despite of all efforts, the proficiency of non-Estonians in Estonian language continues to be rather moderate.

It should be noted that no separate integration programme exists for new immigrants. This should be considered as a big omission as the current integration programme is developed for and covers the needs of the long-term immigrants, i.e. those who arrived to Estonia during Soviet time or if they arrived

⁷⁵ www.meis.ee

⁷⁶ RTL 2008, 31, 463

⁷⁷ Estonian Integration Strategy 2008–2013, Tallinn, 2008, Section 3.3

after 1991, from former Soviet Republics. One of the main issues that new immigrants have to deal with is language training. Most of the courses offered in Estonian are designed for those who speak Russian, and those who do not, are bound to seek a private teacher which makes it rather expensive.

The most important political development that took place during the reported period is the closure of the Bureau of the Minister of Population Affairs, known also as the Minister of Integration. It was indeed a political decision that was covered by the so called requirements of the crisis, i.e. need to harmonise the budget and diminish the expenses. The tasks of the minister are now shared between other ministries, with integration falling under the mandate of the Ministry of Culture. It is therefore very probable that staying in this jurisdiction integration will only cover cultural integration.

In 2010 two new initiatives were launched. One of the initiatives was launched by the quasi-official NGO Estonian Cooperation Assembly, who organised an Estonian Roundtable of Nationalities. The goal of the round table is to engage Estonian inhabitants of different ethnic backgrounds, mother tongues, and nationalities in discussions on important issues related to Estonian society. Interestingly among the members of this initiative, there are very few ethnic minorities and even less specialists on integration.

Secondly the Roundtable of Nationalities of Estonia has been created by the Ministry of Culture and later in 2010 also the Youth platform of national minorities. It should be mentioned that these two mechanisms are marginalised and lack competent people who would have skills and desire to work for an improvement acceptable by the majority of the minority population.

VI.iii Criminal justice

VI.iii.i Racism as a crime

One of the main weaknesses in Estonia is the lack of official data on racist violence, as well as research about trends in this area. As mentioned in the previous chapter, it is common that such cases are not taken seriously and/or not reported. This is due to a low level of awareness amongst the general population about such crimes and the remedies available. This is also because there is a general mistrust of the justice system and there is a lack of interest from the side of the officials towards protecting minority rights.

Furthermore, in Estonia there are no specific instructions for police regarding the implementation of the Criminal Code when dealing with a racist crime. A racist motive is not considered as an aggravating circumstance. Furthermore, the police have no special instructions as to how to act when a racist motive forms the basis of an attack. According to the LICHR database, there were several cases which were dealt with under the general provisions concerning breach of

public order, whereas it was the belief of the LICHR that the perpetrators could have had racist motives. However, this anomaly has never been addressed in detail.

According to the ECRI, no statistics were gathered in cases where an ordinary crime may have a racist motive⁷⁸. In 2008 the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, recommended to the Estonian Government to "develop best practices and general guidelines for the prosecution of cases of incitement to racial hatred and racially motivated crimes, developing clear criteria for the threshold of evidence that is required to be presented and for the investigative conduct of law enforcement officials"⁷⁹.

Both the Police Board and the Security Police Board believe that the topics relating to racially and ethnicity motivated crime can be adequately addressed in the framework of general police training in the Public Service Academy and in other educational institutions. There was also an example of specific training in this field⁸⁰.

Unfortunately during the reported period no legal or significant political developments took place. The provisions of Penal Code stayed as they were despite the criticism of the civil society and international bodies. It is still the case that "hate speech" is difficult to punish as it does not usually result in serious consequences. This fact has also been mentioned in the Draft Concluding Observations of the CERD on Estonia⁸¹.

No public discussions or awareness raising has been carried out during the reported period regarding the EU Framework Decision on Racism and Xenophobia. The provisions of this document are not yet transposed into Estonian legislation. However, certain provisions can be found in the Penal Code⁸² (article 151 – 154, incitement of hatred, violation of equality, discrimination based on genetic risks, violation of freedom of religion).

VI.iii.ii Counter terrorism

Traditionally Estonia is not being considered to be a country that is at substantial risk of terrorist attacks or activities. However, this does not mean that Estonia does not have a national Counter-terrorism Action plan. It is also not so rare to hear the discussion of this topic in the media and among politicians.

⁷⁸ ECRI report on Estonia (forth monitoring circle), published on 2 March 2010, section 38

⁷⁹ Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, MISSION TO ESTONIA, A/HRC/7/19/Add.2, 17 March 2008, Section 88

⁸⁰ Police Board; Written communication no. PA4.4-16.2/4698 of 3 November 2004; Security Police Board; Written communication no. 1748/5 of 4 November 2004

⁸¹ CERD/C/EST/CO/8-9, C-11

⁸² RT I, 2007, 31, 187

Officially there is no list of countries that are considered to be threat to the security of the state, however it is often said that the Russian Federation constitutes the main danger to the constitutional order in Estonia.

In 2009 an interesting development took place in the Court. According to Estonian legislation the former military servants, KGB officers, employees and their spouses do not have the right to receive resident permits in Estonia, nor are they entitled to citizenship. In such instances, permission is only granted as an exception and only for a temporary period⁸³. There is always a clause that such a decision is taken upon analysis of the possible threat this person might constitute for Estonia. However, in 2009, for the first time a judge requested a special analysis of the possible threat the applicant could have from the Security Police (or at least the first time in the practice of ICHR when such a document was attached to the documentation of the case). It was stated in the document that the person hypothetically could constitute a threat to the independence of Estonia, as he could get in contact with his old comrades and use them and the knowledge he has gained against Estonia. Theoretically he will be able to travel to Russia, meet his former colleagues and get recruited. It is important to note that this person is rather old; he is a civilian, an engineer who worked for a military formation who was under the supervision of the KGB⁸⁴. His request was refused.

At the end of the first half of 2010 some prominent politicians allowed themselves to state on the public record that they see a threat to the Estonian State if migration policies were loosened and if immigrants workers, even highly skilled workers arrived in the country. The main reasons why such fears were raised was that people feared that if migrants came when Estonia is experiencing a crisis and when the unemployment rate is rather high, there would also be a lot of migrant workers who would be unemployed and they would subsequently be asking for social benefits and threatening the country. Persons would have riots as a result and the country would fall into a much worse economical situation.

Special attention continued to be paid to Muslims residing in Estonia, especially those, who arrived recently. However, there is a general feeling of danger that Estonian Muslims will start travelling to various countries where Islam is the main religion in order to participate in religious camps or trainings⁸⁵.

Legal Developments

The main legal development that took place during the reported period and falling under Counter-terrorism measures was the adoption of the so-called “Bronze

⁸³ RT I, 2010, 3, 4 art. 125 (1) Aliens Act

⁸⁴ Database of the Legal Information Centre for Human Rights, 2009

⁸⁵ Security Police annual Review, 2009

package”, namely a set of provisions amending the Penal Code that have been under discussion after the Bronze night events and that are seen as a consequence of these events.

At the moment the Penal Code foresees punishment for the following offences:

- Art. 231; Violent activities against the Estonian Republic. (sanction: 6 – 20 years of imprisonment)
- Art. 233; Violent activities against the Estonian Republic Committed by a foreigner (sanction: 2 – 6 years of imprisonment)
- Art. 235.1; Conspiracy against the Estonian State by the Estonian citizen. This includes conspiracy with foreign organisations or persons aiming to commit violent activities against the Republic. (Sanction: up to 6 years of imprisonment)
- Art. 238; Preparation and the organisation of mass riots or other events, call to participate (sanction: 3 – 8 years of imprisonment)
- Art. 239 (1), 11; Provides for punishment in cases during the mass riots. This includes persons breaking windows, setting things alight, fighting and acting against the police force or against other persons aiming to bring about order. (sanction: fine – up to 5 years of imprisonment)

VI.iii.iii Ethnic profiling

Ethnic profiling is still not a serious problem for Estonia. In most of the cases that can be identified or where ethnic profiling was suspected to take place it refers to political views and to historical beliefs.

There is no legal act or policy adopted or even discussed that would allow or support ethnic profiling. However there are certain concerns that merit further attention.

First of all, there is no specific regulation with regard to the status and protection of human rights defenders in Estonia. In its response to the questions submitted to the state by the UN Human Rights Council, the state declared that it does not see the need to implement such special measures in Estonia also because no case of external harassment has taken place. The main relevant legal provision that enables the provision of such support to this group of civil activists is the Constitution of Estonia that prohibits any human rights violation with regards to any human being as well as equality before law and protection⁸⁶. Moreover human rights defenders should not be considered as a group with special status also because no cases of violation of their rights have been registered.

At the same time it is interesting to note that as mentioned, human rights defenders working to promote the rights of ethnic minorities in Estonia are being

⁸⁶ A/HRC/13/22/Add.4 p. 86

harassed by authorities and special services and are under their constant surveillance.

VI.iv Social inclusion

During the reported period Estonia was acting in compliance with the provisions of the National Strategy for Social Protection and Social Inclusion 2008 – 2010, in which the main emphasis is on employment in general and the promotion of opportunities for employment for various categories of people. It is stated in the programme that its objectives and measures for 2008-2010 have been selected with a view that they would be realistically achievable within the implementation period. The objectives and measures of the report are:

- 1) Prevention of long-term unemployment and inactivity and bringing unemployed and inactive people back to employment;
- 2) Prevention and the alleviation of poverty and social exclusion in families with children;
- 3) Supporting the active participation of the disabled in social and working life;
- 4) Prevention of the social exclusion of the elderly and supporting active and dignified aging⁸⁷.

The report is foreseen to maintain cooperation with other strategies and National action plans, including an Integration strategy. In fact the National Strategy for Social Protection and Social inclusion delegates various areas that fall under its control to other strategies. Therefore it does not provide any special paragraphs on the immigrant population or ethnic minorities but references the Integration strategy 2008 – 2013. The main emphasis of the latter is on language proficiency training, which is seen as the remedy for all the problems regarding Estonian ethnic minorities.

No significant legal or political developments in the area of social inclusion took place during the reported period.

⁸⁷ <http://www.sm.ee/tegevus/sotsiaalne-kaasatus/d.html>

VII. National recommendations

Unfortunately during the past year there were rather few positive developments that would help to promote the equal treatment principle and help combat racism. It is therefore rather logical that the recommendations in this report are very similar to the ones from the previous reporting cycle, and even those of international bodies.

VII.i General

- To develop a system of discrimination-related data collection covering all aspects of life;
- To develop and implement on a regular basis awareness raising campaigns covering issues of discrimination in general, mechanisms of protection, responsible bodies and civil society contacts that can be of support. Such campaigns should be targeted at various groups separately. The informational materials should also be prepared in Russian and English;
- To carry out detailed research covering various areas that are relevant to ethnic minorities and immigrants in Estonia with special attention on multiple discrimination;
- to allocate specific funding for the civil society active in promoting the equal rights principle, having expertise in minority issues and providing various kinds of assistance to the public;

VII.ii Anti discrimination

- To provide adequate funding that would enable the proper implementation of the Equal Treatment Act;
- To provide adequate funding for the efficient work of the Gender Equality and Equal Treatment Commissioner;
- To encourage people to take their cases in front of the court or equality bodies;
- To implement positive action measures;
- To widen the mandate of the Chancellor of Justice and enable those bodies to go beyond the conciliation procedure;
- To develop and implement curriculum for law students that would be obligatory to undergo.

VII.iii Migration and integration

- To re-establish the post of Minister of Population and Ethnic Affairs, whose task would be to integrate minorities and immigrants;
- To incorporate all CBPs into national action plan;
- To monitor the situation of new immigrants residing in Estonia and especially visible migrants and visible religious groups;

- To monitor the official linguistic policies in order to protect minorities from unfounded and disproportionate control over the use of language at work, in the public domain and in contact with public administration;
- To involve minority run and representing NGOs in dialogue even if their position is different from state rhetoric.

VII.iv Criminal justice

VII.iv.i Racism as a crime

- To create a comprehensive system of monitoring and investigation of ethnically and racially motivated crimes;
- To introduce special provisions for aggravating circumstances;
- To provide instructions for the judiciary and law enforcement when dealing with cases that might be classified as hate crimes or having a racial motive;
- To amend legislation making it possible to prosecute for hate speech, insult and other abuses even if they only caused moral damage;
- To develop and implement a curriculum regarding racially motivated crimes or having a race motive within the police training programme.

VII.iv.ii Counter terrorism

- To put an end to practices of harassment of human rights defenders from the side of the state
- To measure the proportionality of measures prescribed in the amendments to the Penal code, the so called “Bronze nights package”

VII.iv.iii Ethnic profiling

- To provide special trainings and awareness raising for the police and security men as well as authorities in general and aiming at ending up possible ethnic profiling practices

VII.v Social inclusion

- To recognise that immigrants and non-Estonians are at a high risk of being socially excluded and develop special measures to improve their social inclusion that would focus on something else other than language training.

VIII. Conclusion

Unfortunately, it is not possible to say that a lot has changed in the Estonia during 2009 and the first half of 2010. There are still a lot of gaps in reporting on discrimination and racially motivated crimes. Yet, authorities continue to insist that the discrimination of minorities is not an issue in Estonia and neglect the fact that this group have their own needs and hopes and that they should be provided with guarantees of having the same rights and responsibilities as the majority population.

It is indeed very positive that Estonia finally harmonised its legislation with the requirements of the EU directives, by implementing the Equal Treatment Act and established the Institute of Gender Equality and Equal Treatment Commissioner. It is also positive that when adopting the regulation regarding the activities and mandate of this body the advice of the civil society was taken into consideration. Despite this positive development, it is regretful that the mandate of the Chancellor of Justice regarding the promotion of equal treatment stayed un-amended and its competence is being buried under the limitation of conciliation procedure. As a result not a single case of discrimination has ever been solved by this body.

Our biggest disappointment is that no cases exploring the scope of the Equal Treatment Act reached the Supreme Court and therefore there are no precedents available. Also the number of registered cases related to the discrimination of ethnic minorities is very limited.

Racial motives are still being ignored by the legislator, but also no special instruction for the law enforcement and judiciary has been developed. Hate speech and insults continue to fall outside the scope of the Penal Code provisions. In addition there is still a big concern regarding the future of the education in Russian, especially in remote areas.

Despite the fact that civil society organisations working with racism are extremely small in number, lack funding and are under a permanent threat of sanctions or harassment from the state, their activities can not be underestimated. Indeed it is possible to argue that they lack influence on state policies and do not have effective lobbying strategies, however, they have managed to find their own way of bringing their concerns to the eyes of those involved in policy making. There are also certain positive practices that are in place for several years. Additionally NGOs in the Estonian context serve as one of the main sources of information regarding discrimination cases and work actively in order to develop strategic litigation cases. Most of the awareness raising activities for various target groups is also carried out by the civil society.

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X. Annex 1: List of abbreviations and terminology

AI - Amnesty International

CBP - Common Basic Principles

CERD – Convention against all forms of Racial Discrimination or Committee on this Convention

EC - European Commission

EU – European Union

LICHR - Legal Information Centre for Human Rights

MEIS – former Integration Foundation (Mitte-eestlaste integratsiooni sihtasutus) at present this is Integration and Migration Foundation Meie Inimesed

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(Bronze night events) – 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 symbolizes 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 2009-2010