



european network against racism

ENAR Shadow Report 2011-2012

ENAR SHADOW REPORT

**Racism and related discriminatory
practices in Estonia 2011 - 2012**

ENAR-Estonia

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 in 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 racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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1. Executive summary

This report aims to assess legal and political changes with regards to racism and related discrimination in Estonia between March 2011 and March 2012. The report also presents the views of the civil society actors who are involved in countering racism and discrimination.

The special focus of the ENAR 2011-2012 Shadow Reports is on the Muslim community and Islamophobia. However, the Estonian Muslim population is relatively small and there is little data available.

Estonia has harmonised its anti-discrimination law with the requirements of the European directives. However, there are still many obstacles to ensuring equal treatment of ethnic minorities. The EU Framework decision on racism and xenophobia continues to be poorly implemented, resulting in few prosecutions related to hate speech and racially motivated violence.

- Urgent measures must be taken to improve prosecution of hate speech and racially motivated crime, such as the recognition of racial motive as an aggravating circumstance, and allowing prosecution of hate speech without the current requirement to prove material damage etc.

Little research has been conducted concerning the situation of ethnic minorities in Estonia. However there have been some important positive changes. The issue of possible discrimination against ethnic minorities in the workplace has become an important part of the Working Life analysis ordered by the Ministry of Social Affairs. After considerable delay the Ministry of Justice has published a report on racist and xenophobic attitudes in society. While this is a positive step, these reports alone are far from sufficient. Thus we recommend that:

- More active efforts should be made to study possible difficulties faced by ethnic and religious minorities groups.

The report also highlights that current protection mechanisms against discrimination are inadequate. The Equality bodies are incapable of addressing discrimination effectively. The Chancellor of Justice, who has responsibility for issues relating to discrimination, has recourse only to a reconciliation procedure. No relevant complaints were decided by this institution during the period under review. Another equality body, the Gender Equality and Equal Treatment Commissioner, is prevented by lack of funding from engaging in large scale awareness raising campaigns and even from dealing effectively with complaints.

It is therefore recommended that:

- The mandate of the Chancellor of Justice be expanded so that discrimination cases can be dealt with effectively. The Gender Equality and Equal Treatment Commissioner should be provided with adequate staff and funding.

Employment remains the most problematic issue. Levels of unemployment, particularly long-term unemployment are around twice as high among ethnic minority groups as among Estonian nationals. There is a large disparity between the income levels of these two groups. Most efforts to improve the situation have focused on Estonian language learning. It is clear this is not sufficient and other strategies should be planned.

The State should engage with experts from a variety of backgrounds in order to develop policies and actions which are based more broadly on social inclusion and not only integration through language skills.

At present, recruitment processes allow employers to identify the ethnic origin of a candidate both through their name and by requesting that they specify their mother tongue. This places those who speak Estonian as a second language at a disadvantage even though they may have an excellent command of the language.

- Recruitment practices should be reviewed and the CV templates amended in such a way that they provide as little information regarding ethnic background of a candidate as possible.

The report also highlights obstacles to political and civic participation by members of ethnic minority groups. The main concern in this regard is the lack of opportunities for dialogue between the authorities and representatives of minorities. Issues of racism and ethnic discrimination are not taken seriously at national level and therefore the funding provided for such activities is inadequate.

- Ethnic minorities should be more involved in decision-making and consulted on issues that affect the community itself. Increased possibilities for dialogue should be created and maintained.

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3. Introduction

Estonia is a small European country with a low immigrant population and few visible minority groups. Emigration rates are high. In spite of this, tolerance levels are low. According to the OECD report *Society at Glance*, Estonia has the lowest levels of tolerance towards minority groups among OECD countries.¹ It was noted in that analysis that this can partly be explained by attempts by politicians to stir xenophobic tendencies among the population in order to increase feelings of national unity.²

It is difficult to determine how widespread the problem of racially motivated violence is in Estonia because data and statistics about racially motivated crime are not collected.³ Similarly there has been little research and quality analysis regarding equal treatment of minorities in their everyday life. Discrimination is still very rarely reported, despite the fact there are two equality bodies in place as well a number of civil society initiatives aiming to support strategic litigation.

In order to better understand the situation in Estonia we must first examine those communities which are vulnerable to racism and related discrimination. As of January 1 2012, Estonia had a population of 1 339 662⁴ (initial data from National Population Census of 2011 - 1 294 236).⁵ Since minorities make up almost 30% of this, Estonia ought to be considered a truly multi-ethnic society. The majority of the minority population speak Russian, either as their native language or as a language of communication. In some areas ethnic minorities constitute a majority reaching up to 84% of the population⁶. The composition of ethnic minorities in Estonia has been discussed in more detail in previous shadow reports.

Most of the minority community has resided in Estonia since the practice of 'forced migration' during the Soviet era. These groups continue to be perceived in a negative manner by the majority population. They are still considered to be occupants who came to Estonia against the will of the local population and through whom the oppressive regime of the Soviet was enforced. Often ethnic minorities are called migrants both by politicians and academics. Yet among the minorities themselves this term is considered to be pejorative as they do not consider themselves to be migrants.

One concern with regard to the minority population continues to be the problem of **mass statelessness**. As of January 1, 2012 94,395 persons or 7% of the total population do not hold citizenship of any country in the world⁷

¹ Society at glance: OECD Social Indicators, OECD publication 2011.

² ERR Uudised "Analüütikud: Poliitikud ignoreerivad vähemuste teemat", 17.04.2011

³ Postimees "Inmõiguslane: sallimatust kui probleemi teadvustatakse meil üha enam", 26.04.2011

⁴ www.stat.ee, Estonian statistics, Table RV0222

⁵ National census 2011, accessed at http://www.stat.ee/63779?parent_id=32784

⁶ Ida-Viru county, Narva city in particular.

⁷ <http://valitsus.ee/et/valitsus/tegevusprogramm/loimumine/maaratlemata-kodakondsusega-isikute-arv>

i.e. are stateless or, to use the national terminology, they have undefined/undetermined citizenship. Many of these people have been permanently residing on the territory of Estonia for decades. While around half of them were even born here, due to strict naturalisation rules they are unable to receive Estonian citizenship and do not feel sufficiently tied to any other country to request citizenship elsewhere.⁸ According to the data received from the Integration Monitoring in 2011 the main reason why people still have the undefined citizenship and do not apply for any citizenship is low proficiency in the Estonian language that does not allow them to pass the naturalisation exam⁹.

Estonian citizenship is held by 84% of the population, 7% are citizens of the Russian Federation, 2% of the other countries and 7% are stateless¹⁰. There is a clear difference between the rights enjoyed by Estonian citizens and citizens of the EU and those enjoyed by stateless persons as well as other third country nationals. These differences are most striking in the areas of employment and in the exercise of civil and political rights.

This report aims to examine the situation with regards to equal treatment of the above mentioned communities in various aspects of life, including access to employment, housing and health services, political participation, media, hate crime, counter terrorism policies etc. We will analyse available data as well as political and legal developments. As was the case in previous reports, there have been no major legal or political developments with regard to racism or related discrimination in Estonia. State authorities persistently refuse to recognise racism and related issues as serious problems. Many politicians are willing to exploit popular dislike of immigrants and ethnic minority groups for political gain.

Criticism from the international community has stressed that the lack of discrimination cases before the courts and equality bodies does not indicate that discrimination is not a problem in Estonia, but rather that the state is willing to deal with this problem.¹¹ After considerable delay, the Ministry of Justice has finally published a study carried out on its behalf by the Universities of Tallinn and Tartu, focusing on racism and xenophobia in Estonia.¹² While the report was published in 2011, it covered the year 2007. The report revealed that 22% of the Estonian population have witnessed or experienced discriminatory treatment based on race, nationality or religion. Among Estonians, 46% of the people consider that immigrants increase criminal activity. In Estonia, hate speech on the internet primarily targets Russians, followed by the Roma and Christians.¹³

⁸ Racism and discrimination in Estonia 2010-2011, Shadow report, ENAR, 2011

⁹ Integratsiooni monitoring 2011, ordered by the Ministry of Culture and published in 2012 http://www.kul.ee/webeditor/files/integratsioon/Integratsiooni_monitoring_2011.pdf

¹⁰ <http://valitsus.ee/et/valitsus/tegevusprogramm/loimumine/maaratlemata-kodakondsusega-isikute-arv>

¹¹ ECRI

¹² Rassi- ja võõravimm Eestis, Laineste. L *et al*, Justiitsministeerium, Tallinn

¹³ Ibid.

As with the 2010 report,¹⁴ much of the public discussion and media coverage during the period under review concerned the reform of Upper-secondary schools which use Russian as the language of instruction. This reform envisages a transfer of the education process into the Estonian language. The reform will require that at least 60% of subjects be taught in Estonian language, with the option of teaching the remaining 40% in Russian. This process is strongly opposed by the minority population. However the state refuses to see any possibility for dialogue or compromise.

At the end of 2011, the Security Police reported that several high profile politicians have sold temporary residence permits to wealthy foreign nationals, mainly from Russia. This revelation caused lively public discussion and resulted in the adoption of amendments to the Aliens Act restricting the issuing of residence permits for the purpose of being a part of the Management Board of the Company.

The special focus of this report is on Islamophobia and the situation faced by the Muslim community in Estonia.

It appears that ethnic background alone is not a major ground of discrimination in Estonia. The characteristics of those who encounter discrimination include a number of factors including: mother tongue, Estonian language proficiency, citizenship, political beliefs, social status and indeed ethnic background and possible religious beliefs.

The report covers developments during the period from March 2011 to March 2012. In some cases earlier or later developments will be included where this is necessary to deal with the issues in a comprehensive manner.

¹⁴ Racism and discrimination in Estonia in 2010-2011, Shadow report, ENAR, 2011

4. Significant developments in the country during the period under review

Little has changed with regards to racism and related discrimination in Estonia during the period under review.

As was the case in previous reports, the issues of racism and ethnic discrimination carry little weight with state institutions and civil society, both of which are dominated by the majority population. These issues are greatly shaped by the discourse of the political parties, which often panders to nationalism and xenophobia. Politicisation of these issues also prevents civil society organisations from championing groups and issues which may be unpopular. They fear that by doing so they may lose political favour and as a result lose credibility and funding. This state of affairs has also been shaped by Estonia's history, discussed in detail in previous Shadow Reports.¹⁵

There is little research and data available regarding equal treatment in various spheres of life. There is little public interest in addressing these issues.

One significant development during the period under review was the publication of a report by the Ministry of Justice on the topic of racism and xenophobia in Estonia.¹⁶ The report has been written by the joint actions of Tartu and Tallinn Universities. Interestingly, while this study covers the period until 2007, it was not published until 2011 and attracted little publicity. Nonetheless, this initiative is important as this is one of only a few reports addressing the issues of ethnic discrimination, and the first report addressing xenophobia initiated by the state. The report pointed out that 22% of the Estonian population have witnessed or experienced discriminatory treatment based on race, nationality or religion. Among Estonians, 46% of people consider that immigration leads to an increase in criminal activity. In Estonia, hate speech on the internet primarily targets Russians, followed by the Roma and Christians.¹⁷

It should be noted that it has generally been difficult to maintain any kind of dialogue with the state or politicians but also with other civil society organisations. The authorities take little interest in minority groups. Yet there exist several roundtables of minority experts (at the Ministry of Culture, Initiative on Partnership www.kogu.ee) that are supposed to represent the voice of minorities when planning integration strategies or other policies.

¹⁵ Before 1991 Estonia has been a part of the Soviet Union. Most of the minorities residing in Estonia at the moment are the legacy of the period when the so called 'forced labour migration model' was in place. Moreover the Soviet period is a result of annexation, often referred to as occupation. The modern political elite unfortunately still shapes its programmes on nationalistic feelings of the citizens and enacts policies from the perspective of assimilation, rather than integration and tolerance.

¹⁶ Rassi- ja võõravimm Eestis, Laineste. L *et al*, Justiitsministeerium, Tallinn

¹⁷ Ibid.

However, it is not clear on what basis these individuals were selected or what they are expected to add to discussions.¹⁸

4.1 Changes regarding Implementation of the EU Directives 2000/EC/43 and 2000/EC/78

Despite the fact that Estonia had implemented the EU Directives (2000/EC/43; 2000/EC/78) into its national law and has established equality bodies, little concrete action has been taken by the state to raise awareness of these issues and counter discrimination. The mandate of the Chancellor of Justice continues to be very limited as it is restricted to the use of a reconciliation procedure (i.e. in order to deal with cases where discrimination is alleged, the Chancellor needs the agreement of both parties). This is highly inefficient and impractical as few individuals who have been accused of discrimination are willing to participate in such a procedure, especially given that the results of the procedure may result in the prosecution of that individual. It is therefore not possible to say that this body is fully in compliance with the Paris Principles. This problem has been highlighted a number of times by various bodies including international organisations, and has been discussed in previous shadow reports. The Chancellor of Justice has indicated that it prefers to advise individuals complaining to it regarding equal treatment to either turn to the court or direct their complaint to the other equality body set under the requirements of the EU Directives – Gender Equality and Equal Treatment Commissioner¹⁹. However, the capacity of this body is limited by financial restraints. In fact, this institution consists of the Commissioner herself and an assistant. Their budget they have is sufficient only for their salaries and some administrative expenses. This issue has been repeatedly brought to public attention.²⁰ The Commissioner herself acknowledges that her role is limited by the lack of financial and human resources.²¹ A number of articles in local media have suggested that the inefficiency of the body is the result of both scarce finances and of incompetence on the part of the personnel.²²

4.2 Case-law

Similarly to previous years, there has been practically no case law regarding racial or similar discrimination or hate crimes decided by the court. There have also been few complaints lodged before the equality bodies or labour inspectorate. NGOs have repeatedly stressed that the dearth of cases regarding discrimination does not prove that discrimination is not an issue but rather indicate unwillingness on the part of the state to deal with such cases.

¹⁸ Racism and discrimination in Estonia 2009, Shadow report, ENAR

¹⁹ Written Communication with the Chancellor of Justice, February 2012.

²⁰ Last mentioned in: Human Rights in Estonia, Annual report, 2011, by Human rights Foundation, available at www.humanrights.ee

²¹ Written Communication from the Gender Equality and Equal Treatment Commissioner, from December 2011

²² "Volinik Sepper lihtsalt loolitas ja pettis mind", by Janar Filippov, Eesti Ekspress on 21.12.2011

4.3 Changes with regards to civil society

Unfortunately, the civil society in Estonia is also lethargic when it comes to issues relating to racism and ethnic minorities. There are practically no NGOs run by representatives of minority groups to provide assistance to victims of discrimination, neither are they conducting research on the difficulties faced by minorities which would be of practical use at national level.

4.4 Developments regarding migration and integration policies, legal changes

One of the key developments with regards to migration concerns the introduction of a requirement for receiving a temporary residence permit on the ground of becoming member of the Management Board of the company. The amendments have been initiated by the Minister of Internal affairs after the Security Police reported a number of violations of the legal provisions in place. By the end of 2011 several high profile politicians had been accused of selling residence permits on the above mentioned ground to wealthy Russian citizens who apparently had little interest in establishing businesses in Estonia but rather wanted grounds to enjoy free movement within the EU by having residence permits in one of its Member States. There were 160 names on the list of persons who had bought a residence permit disclosed by the Security Police. All of them had applied for and were granted residence permits on the grounds that they were becoming a Management Board Member of the Company. However, the companies in question had never started any real economic activities. Some of the individuals on the list had never entered Estonia.

As a result, the Minister of Interior first introduced a quota for residence permits on this ground. This was introduced in the middle of 2011 and had retrospective effect. The new quota was also frozen until the amendments to the Aliens act entered into force. Thus, no residence permits on this ground were issued between July 2011 and July 2012. The amendments requested were adopted in spring 2011 and entered into force on July 1, 2012. In spite of speculation about stricter requirements and possible restriction of the other grounds for receiving residence permits, the final act was not particularly demanding. The act requires stronger financial guarantees for such companies (minimum half a year of economic activity of the company before a foreign national can apply for a residence permit, evidence of real activities, minimum salary requirement for the person in question etc.)²³.

Another important development in this regard is the adoption of the National Set of Policy Measures for Roma Integration in Estonia. This document is based on the Commission's Communication on an EU Framework for National Roma Integration Strategies by 2020 of 5 April 2011 and the Council Conclusions of 19 May 2011²⁴. While this document mainly refers to the State Integration Strategy 2008-2013 - which is more general and applies to all ethnic groups and takes only some additional actions aiming to paying

²³ Valismaalaste seaduse ja riigilõivuseaduse muutmise seadus, RT I, 29.06.2012, 5

²⁴ Ministry of Culture of Estonia, Department of Cultural Diversity.

specific attention to Roma community in Estonia - it is important that the state has finally begun to acknowledge that this particular ethnic group needs attention. In the previous shadow reports it has been repeatedly highlighted that Estonia has not seen the need to develop policies aimed specifically at the Roma community as this community is very small.²⁵

International opinions and recommendations

The Advisory Committee on the Framework Convention for the Protection of National Minorities published its third opinion on Estonia on 7 November 2011 which highlights several instances where Estonia needs to improve its situation regarding national minorities.²⁶ The Advisory Committee noted issues relating Russian language education reform and language issues in relation to access to healthcare services and in the Ida-Viru region.

²⁵ See for example Shadow report on Racism in Estonia 2010-2011.

²⁶ Council of Europe advisory Committee on FCNM, 3-d opinion on Estonia, april 2011.

5. Special focus: Islamophobia

The present report attempts to examine the specific situation of the Muslim community in Estonia. This community is very small and is primarily secular. There is little available data and information on the lives of the Muslim community in Estonia. There are relatively few organisations within the Muslim community itself which protect the interests of Muslims. Those that do exist are reluctant to cooperate with other NGOs dealing with human rights or racism.

The exact size of the Muslim community in Estonian is unknown. The only relevant data is the National Census of 2000, according to which 1387 persons identified themselves as Muslim²⁷. Of those, 754 identified themselves as Tatars (the total number of Tatars counted at that time was 2 582), 83 were Estonians, 79 were Russian and 455 Muslims fell under the category of “other ethnical groups”. 880 Azeri (Azerbaijani) were counted, however none of them identified him or herself as Muslim²⁸. Importantly the Azeri community in Estonia is the second biggest group (after Tatars) that comes from a traditionally Muslim background. Up to 500 persons identified said that they belong to other ethnic groups that are also traditionally associated with Muslim: Uzbeks – 132, Kazakhs – 127, Chechens – 48, Turks – 24, Arabs – 18, Kurds – 15 and others²⁹.

The most recent National census was carried out in 2011. Some data is already available; however the data relating to religious affiliation has not yet been compiled.

Some studies suggest that there were around 4 500 Muslims in Estonia in 2010. However, of these it is believed that only a few hundred regularly practise their faith. Immigration levels in Estonia are low.³⁰

While Estonia does not have a state religion, some Lutheran religious holidays are also state holidays. 13.6% of Estonians are Lutheran, making this the largest religious group in the country. The second biggest are the orthodox Catholics (12.8%) and other Christians (1.4%).³¹

Registration of religious groups is regulated by the Churches and Congregations Act and is carried out through the courts³². Formal registration is mandatory. It allows the religious group to conduct marriages with civil validity, to benefit from tax exemptions and to establish private schools.³³

Estonian Muslims established their own premises in 2009, purchased with money from a Saudi sponsor. The centre hosts an Islamic cultural centre

²⁷ National Census, Estonia, 2000

²⁸ Ibid.

²⁹ Ibid.

³⁰ Year book of Muslim in Europe

³¹ National Census, Estonia, 2000

³² Kirikute ja koguduste seadus, RT I, 02.02.2011, 3

³³ Ibid.

Turath, library, room for lectures, prayer room and office of the Imam. Several smaller centres are located in Tallinn and also nearby Maardu. Some years ago there were discussions about the construction of a mosque in Tallinn, but permission was not granted³⁴.

Halal food is available in a small privately owned shop in Tallinn. At present it is difficult to access local Halal meat. While in theory, permission to operate a halal butcher shop may be granted³⁵, the presence of an authorised person when killing the animals must also be requested as killing can be done only outside the slaughterhouse. The application for religious killing should be submitted 10 days before the planned procedure³⁶. Yet in practice permissions is difficult to obtain. The Animal rights lobbyists are influential and strongly advocate a prohibition of halal meet production. There was considerable public debate on this issue in 2011.³⁷

There are no rules restricting dress in public or at school. However, very few women in Estonia wear the headscarf and even fewer wear the hijab. In 2009, permission was granted for women to take photos for passports and other official documents wearing a headscarf³⁸.

The Muslim community in Estonia receives very little media coverage. Occasionally representatives of the community are invited to comment on some events of national and international character.

There is almost no data regarding discrimination against Muslims in Estonia. In 2011 The Institute of Baltic Studies conducted interviews with individuals who had received international protection. One interviewee reported the following incident:

I had problems with praying in winter. ... I started to pray in a shopping mall when a security guard came and sent me away. I went on [to another shopping mall] but then the saleswomen called for a security guard also. They then sent me to their room. They said that they cannot forbid me but told me not to do that. I asked if Estonian laws forbid it but they said no: "but don't do it here."³⁹

In general, it appears that Islamophobia is not a serious and widespread issue in Estonia. This may be due to the small number of Muslims. The difficulties faced by the Muslim community are similar to those encountered by ethnic minority groups and depend upon Estonian language proficiency, citizenship etc.

Unfortunately it is difficult to provide a thorough assessment of the situation in Estonia as the leaders of the community are reluctant to provide interviews.

³⁴ Racism in Estonia 2008, Shadow report, ENAR

³⁵ Loomakaitse seadus, RT I 2001, 3, 4

³⁶ Looma religioosel eesmärgil tapmise korraldamise ja läbiviimise kord, RT I 2001, 69, 421

³⁷ "Eesti moslemid on lihahädas", Eesti Ekspress, 27.10.2011

³⁸ Dokumendi väljaandmise taotlemisel fotole esitatavad nõuded, RT I, 2009, 41, 277

³⁹ Kallas, K. and Kaldur, K. (2011) *Eestis rahvusvahelise kaitse saanud isikute hetkeolukord ning integreeritus Eesti ühiskonda*, Tartu, 2011

6. Access and full participation in all collective areas of society

Previous ENAR Shadow reports have examined the trends relating to racism and related discrimination in Estonia (2006 – 2010/2011). There have been few changes in this regard during the period under review. Many of the issues identified in previous ENAR shadow reports were confirmed in a study published by the Ministry of Justice on racism and xenophobia, which compared data from 2000-2007.⁴⁰

Language is the most pervasive concern. While Estonian is the only state language, about 30% of the population are native Russian speakers. As of the beginning of 2011, in the capital city Tallinn 38.5% of the population were ethnic Russians and 46.7% spoke Russian as the mother tongue⁴¹. In some regions the majority of the population are Russian speakers. For example in Ida-Viru county (North-East of Estonia) ethnic non-Estonians constitute a vast majority of the population. In Narva city for example, ethnic Russians make up 82.02%⁴² of the population, in Sillamae – 82%⁴³, and 69.68% in Kohtla-Järve.

The State Integration Programme 2002-2007⁴⁴ and the State Integration Strategy 2008-2013⁴⁵ focus mainly on integration through improving language proficiency of non-Estonians. Command of the Estonian language among minority groups remains problematic, though it is gradually improving⁴⁶. Language proficiency remains essential for dealing with administration, official correspondence, higher education, access to long-term residence and citizenship upon naturalisation, entry to many professions, access to justice and other areas of life. While the author does not criticise the linguistic requirements *per se*, these requirements are often disproportionate in practice, especially concerning access to many professions and to justice.

One long-term concern is reluctance on the part of the state to cooperate and engage in dialogue with the minority representatives when developing policies, including those relating to integration and equal treatment. State authorities do not recognise minorities as credible partners and experts regarding community related affairs. A similar attitude has been noted among journalists.

The number of persons with undetermined citizenship in Estonia decreased slightly during the period under review. In 2010 1080 persons with

⁴⁰ Rassi- ja võõravimm Eestis, Laineste. L *et al*, Justiitsministeerium, Tallinn

⁴¹ www.tallinn.ee/est/g2677s56143 Statistical yearbook of Tallinn

⁴² www.narva.ee Narva in figures 2011

⁴³ http://www.sillamae.ee/public/files/sillamae_arvudes_2010.doc

⁴⁴ http://www.kul.ee/webeditor/files/integratsioon/integratsioon_eesti_uhiskonnas111.pdf

⁴⁵ http://www.kul.ee/webeditor/files/integratsioon/Loimumiskava_2008_2013.pdf

⁴⁶ Eesti ühiskonna 2011. aasta integratsiooni monitooring

undetermined citizenship were granted Estonian citizenship. Citizenship was granted to 1341 such persons in 2011 and during the first half of 2012 citizenship was granted to 529 persons⁴⁷. Nevertheless, the number of stateless persons remains high- 97 437 persons were stateless as of beginning of 2011 which makes up 7.3% of the total population of Estonia. There were 94 395 stateless persons (7%) as of the beginning of 2012⁴⁸. Citizenship is essential for full participation in politics, for certain occupations and can also be a requirement for purchasing real estate.

Estonia does not officially allow double nationality, yet, where Estonian citizenship has been granted at birth it cannot be revoked. As a result a number of people have double citizenship *ex officio*. Their exact number is not known. In 2012, a discussion was initiated by high ranking politicians from the governing parties, including the vice-speaker of the Parliament Ms. Laine Randjärv (who was later joined by the Minister of Justice Mr. Ken-Marti Vaher and others) with regards to the possibility of allowing double citizenship but only to those who are citizens by birth.⁴⁹ If such a proposal is adopted it will further disadvantage those who gain citizenship through naturalisation.

In addition, receiving Estonian citizenship through birth is a more stable status since under the the Citizenship Act this form status is irrevocable. In contrast, status received through naturalisation can be withdrawn in a number of cases, also due to political activism possibly if it is against official rhetoric⁵⁰. Yet, such a procedure had never been exercised to date.

The offence of incitement to hatred is poorly enforced. Racial motivation is not considered an aggravating factor in the commission of a criminal offence. At present data collected on crimes does not disaggregate those crimes committed with a racist motive. On a positive note, in 2011 a case involving hate speech was decided by the court. This decision is the first one since 2006, when the amendments into the Criminal code introduced a precondition of serious damage to property or health for the prosecution of hate speech.

6.1 Racism and related discrimination in employment

6.1.1 Manifestations of racism and related discrimination in employment

Employment is one of only a few areas where data and research relating to equal treatment are available. Most known cases alleging discrimination relate to employment.

The following table gives an overview of unemployment rates among Estonian nationals and non-Estonians. While in general the activity rate among non-

⁴⁷ <http://www.politsei.ee/dotAsset/61217.pdf>

⁴⁸ <http://valitsus.ee/et/valitsus/tegevusprogramm/loimumine/maaratlemata-kodakondsusega-isikute-arv>

⁴⁹ "Randjarv: Estonian citizens should have a possibility for a double citizenship". <http://rus.err.ee/estonia/92e7e3a6-f15b-4162-9806-cfdc3b796eb0>, 13.02.2012

⁵⁰ Kodakondsuseadus, RT I, 02.07.2012, 4, par. 28

Estonians is higher than among Estonians the unemployment rate of non-Estonians is almost double that of Estonians. While it is encouraging that unemployment appears to be decreasing, long-term unemployment rates remain relatively high, especially among minority groups.⁵¹

Table 1: Activity and unemployment rates among Estonians and non-Estonians⁵².

2010	Estonians	Activity rate, %	64.8	
		Employment rate, %	56.1	
		Unemployment rate, %	13.4	
	Non-Estonians	Activity rate, %	69.5	
		Employment rate, %	53.2	
		Unemployment rate, %	23.4	
2011	Estonians	Activity rate, %	66.5	
		Employment rate, %	60.1	
		Unemployment rate, %	9.7	
			Long-term unemployment rate, %	5.0
			Very long-term unemployment rate, %	2.7
		Non-Estonians	Activity rate, %	69.8
			Employment rate, %	57.1
			Unemployment rate, %	18.2
			Long-term unemployment rate, %	11.3
		Very long-term unemployment rate, %	6.6	

It is also important to note that the unemployment rate differs from region to region. It is much higher in Ida-Viru region, where non-Estonians constitute a majority of the population. This can be explained by a number of factors; during the Soviet era this region was predominantly industrial and after collapse of the union these industrial giants were not needed for the new state and they were gradually closed down. Alternative employment has not been developed in the region. Estonian language proficiency is limited among many of those residing in that area. This is a serious barrier towards employment and prevents them from moving to other regions in search of work. Unfortunately, the regional development programmes do not adequately address the needs of the region.

Table 2. Long-term unemployment related to citizenship⁵³

Long term unemployment in general (Estonians and non-Estonians)	
Total	7.1%
Estonian citizenship (includes also non-Estonians)	5.7%
Third-country nationals	12.8%

⁵¹ Estonian statistics at www.stat.ee, assessed on 30 August, 2012

⁵² Statistics Estonia at <http://pub.stat.ee>, accessed on 30 August, 2012

⁵³ Statistics Estonia at <http://pub.stat.ee>, accessed on 26.08.2012

Stateless persons	15.1%
Very long-term unemployment	
Total	4.0%
Estonian citizenship	3.2%
Third-country nationals	7.0%
Stateless persons	8.5%

This table highlights the problem of long-term unemployment among third-country nationals and stateless persons. Here a direct connection can be seen between legal status and employment and, by extension to welfare. Unemployment rates may be connected to language proficiency, as many of those who hold citizenship from Russia or other former Soviet states and many of those who are stateless are not sufficiently proficient in the language and therefore cannot meet the language requirement for receiving Estonian citizenship.

There is considerable disparity in income levels between Estonians and non-Estonians. Unfortunately there is no data available for the year 2011 or the beginning of 2012. The following table demonstrates that there have been no significant differences regarding the income rate in 2010 as compared to 2009. It also highlights that the income of Estonians continues to be higher than that of non-Estonians, i.e. the number of non-Estonians in the lowest and second quintiles is much higher than Estonians. At the same time the number of Estonians in highest quintile is double that of non-Estonians.⁵⁴

Table 3. Income related differences among ethnic Estonians and non-Estonians⁵⁵

	Lowest quintile	Second quintile	Third quintile	Forth quintile	Highest quintile
2010 (2009)					
Estonians	17.4 (17.8)	17.8 (18.2)	20.4 (19.8)	20.8 (20.5)	23.6 (23.7)
Non-Estonians	26.1 (25.1)	25.3 (24.3)	19.0 (20.3)	18.1 (18.9)	11.5 (11.4)

The Ministry of Social Affairs has noted that one of the main obstacles to employment among non-Estonians is their poor command of the Estonian language. It was also noted in the Act on Labour Market and Related Benefits that non-Estonians, with poor Estonian language skills, are an especially vulnerable group whose integration in the labour market is limited⁵⁶. For both groups, education levels are linked with employment rates. Data suggests that the difference in employment rates between the two groups is less significant among those who have been educated to university level. In 2009, 9.3% of the minority population was unemployed compared to 4.7% of Estonians.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Sotsiaalministeeriumi teemaleht nr. 6-2010 "Töötud mitte-eestlased Eesti tööturul"

Among those with secondary education the respective rates are 21.8% and 12.4%.⁵⁷

In 2011 the Ministry of Social Affairs published a Study on Employment life (*Eesti tööelu-uuring*) based on data collected in 2009. The study examines discrimination in the workplace. The report concluded that discrimination is not a serious issue in Estonia. In most cases where respondents identified discriminatory practices they related to the practices of the individual manager (40%). Many noted conflict and bad relations with the latter. Respondents mentioned age (9%), gender (7%); poor Estonian language proficiency (5%); ethnicity (4%); disability or long-term health problems (4%); family and children (3%); political views (2%); religious affiliation (1%).⁵⁸ The majority of the respondents who reported discrimination were highly educated. This may be a result of higher levels of awareness of relevant legal provisions and of the concept of discrimination in general.⁵⁹

Public discussion took place in Estonian media in 2011 and was prompted by research conducted by Tartu University entitled 'Language skills and social integration: ethnic disparities in bilingual economy'⁶⁰ which revealed that Estonian language proficiency does not necessarily affect the income of ethnic non-Estonians, particularly men. The main findings of the research were discussed in last year's Shadow Report.⁶¹ The findings of the report were striking in that they contradicted much political rhetoric about immigrants and the socially excluded i.e. that a good command of the Estonian language is the key to employment and social inclusion and that funds should be directed towards language training accordingly.

Media debates were critical of the approach used by the researchers, particularly of the fact that self-evaluation of language knowledge has been used rather than standardised results obtained by taking a language exam.⁶² It was also argued that good Russian language skills are considered to be an advantage in access to employment. Russian is often required by employers and few Estonians have a good command of this language.⁶³ This is indeed true, but where an employer seeks applicants who speak Estonian and Russian (or another language) it is the ability to speak Estonian which is valued most.

There has been no case law regarding equal treatment to employment during the period under review. However, several cases have been highlighted either through media publications or through legal advice of the Legal Information

⁵⁷ Statistikaamet, *tööjõu-uuring 2009*, joonis 9

⁵⁸ Eesti Tööjõu-uuring, Sotsiaalministeerium, 2011, Joonis 2.9

⁵⁹ Eesti Tööjõu-uuring, Sotsiaalministeerium, 2011

⁶⁰ Lanugage skills and social integration: ethnic disparities in bilingual economy (work in progress), J. Meriküll, O. Toomet, January 31, 2010

⁶¹ See. Racism and related discrimination in Estonia 2010-2011, Shadow report, ENAR, p. 18

⁶² Salary and proficiency in state language (*Zarplata i gos.jazyk*), Mart Rannut, Postimees (v.k), 05.07.2011

⁶³ Ibid.

Centre for Human Rights⁶⁴. Two complaints have been lodged before the Gender Equality and Equal Treatment Commissioner⁶⁵. Most cases concern Estonian language proficiency and access to employment.

Case 1: The person applied for a position at a branch of a multinational corporation in Estonia. All the documents had to be submitted in both English and Estonian and the competition task had to be written in English. After the applicant received a letter, written in English, notifying her that she had been unsuccessful, she requested more information regarding the rejection. The letter of request was sent also in English. The reply that followed, however, was rather rude; person responsible for the recruitment wrote back in Estonian and asked why this letter was sent in English if both parties are in Estonia where the state language is Estonian. No further correspondence or explanations have been received from the foundation. The complaint was not lodged in front of any of the equality bodies.⁶⁶

Case 2: This complaint has been lodged before the Gender Equality and Equal Treatment Commissioner. The applicant questioned whether the Ministry of Foreign Affairs treated her/him fairly during the recruitment for a diplomatic position. The complainant is a member of the Russian ethnic minority, whose mother tongue is Russian, but undertook professional education in Estonian. The job description for the position mentioned that the successful candidate should have very a good command of the Estonian language. The Ministry requested that non-Estonians self-evaluate their Estonian language skills. C2 is the highest level on the evaluation grid and is equivalent to native proficiency. The applicant assessed her/his level as C1 as this is the highest level for which the proficiency exam can be taken and this is the level required for this position by law. Later the Ministry claimed that 'very good knowledge' should equate to C2 level. They also stated that in the motivation letter the candidate used simple constructions which suggested that the language proficiency of the candidate was not of a high enough standard. The Commissioner concluded that this amounted to discrimination. The Commissioner decided, based on EU case-law, that in this case discrimination based on language knowledge should be considered equivalent to ethnic discrimination as mother tongue is linked with ethnicity. The Ministry had violated the equal treatment principle as set out in the Equal Treatment Act; according to the Act on Public Service only the language proficiency level set out in the legal acts can be requested upon employment. In this case the requested level (C2) was higher than that envisaged (C1) in the Language Act. The Ministry did not take into consideration the fact that the applicant received professional education in the Estonian language and therefore is not bound to provide proof of language proficiency. All the candidates who passed the final competition were native Estonian speakers. The Ministry did

⁶⁴ Written Communication with the Legal Information Centre for Human Rights, of August 2012

⁶⁵ Written Communication with the Gender Equality and Equal Treatment Commissioner, January 2012

⁶⁶ LICHR database

not take active measures to ensure that all the candidates were treated equally regardless of their ethnic background⁶⁷.

The practice of asking applicants to specify their mother tongue is common in recruitment. Many online job searching portals ask this questions by default. If a mother tongue other than Estonian is selected then a self-evaluation option of state language proficiency, as well as other foreign languages, is requested.

Case 3: This case was filed in front of the Commissioner in April 2011, but was decided on 30 August 2012. The complainant alleged that she had been discriminated against at work due to her ethnic background. She had worked for the OU Instrumentarium for many years and was a highly regarded specialist. She was refused a transfer to another department with better working conditions and a higher salary. All of the personnel in this department were ethnic Estonians, many of whom had no work experience. The complainant had applied to be transferred to this department several times, but was refused without explanation. The department where the claimant was working introduced a shift-work system, which was not possible for her because she has small children. She was also offered another position with a lower salary. She again asked to be transferred to the new department which did not have shift-work system. She was refused and as a result had to terminate her employment. The Commissioner found *prima facie* evidence that the employer had used to a discriminatory approach to recruitment. The employer had failed to prove the opposite.⁶⁸

The above cases are examples of common themes throughout recruitment policies in Estonia.

Case 4: An individual applied for a vacancy in an NGO dealing with the issues of corruption and transparency. The applicant is a high profile minority rights defender. Although his qualifications and experiences were better than those of the person who was offered the job, he was refused the position. The potential employer refused to provide any comments or details with regards to the refusal. The case is currently being considered by the Gender Equality and Equal Treatment Commissioner⁶⁹.

There is no available data relating employment issues which affect the Muslim community in Estonia.

6.1.2 Facilitating factors or protective measures to combat employment challenges

⁶⁷ Soolise Võrdõiguslikkuse ja Võrdsekohtlemise volink, arvamus, 16.08.2012, available from the official website: http://www.svv.ee/failid/16.08.2012_arvamus_anonymiseeritud.pdf (accessed on 12.09.2012)

⁶⁸ "Volinik: Instrumentarium eelistas töölevõtmisel eestlasi", Tarbija 24, www.tarbija24.ee, 30.08.2012

⁶⁹ LICHR database

In spite of the widespread nature of discrimination in access to employment in Estonia, little is being done to tackle the problem. Little funding has been provided by the state for projects aimed protecting human rights in general, and anti-racist activities in particular. It was highlighted in last year's report that the state does not see racism or ethnic discrimination as a serious problem for Estonia and wishes to focus on other areas. For example the focus of the activities under PROGRESS funds during the reported year was on people with disabilities and the LGBT community.⁷⁰

The minority community itself is inactive and has little interest in protecting and vindicating its members' rights. While a small number of organisations exist most of their activities are project based. They are poorly funded and tend not to have long-term strategies. These organisations are not generally involved in advocacy or lobbying at national level.

As a result there have been no real changes in regards to access to employment during the period under review. There were no significant legal or political developments.

Trade unions are practically inactive in this area. No action has ever been taken by the Central Trade Union of Employees concerning the equal treatment of ethnic minorities.

The Advisory Committee on the Framework Convention for the Protection of National Minorities has noted that there is still a perception among even highly trained professionals with Estonian citizenship and perfect Estonian language abilities that there is a 'glass ceiling' in terms of professional development for them in Estonia due to their ethnic background.⁷¹ Lingering perceptions that Estonians are the preferred candidates for jobs, irrespective of qualification or language ability, should be combated vigorously to ensure that members of national minorities feel encouraged to enter and remain in the Estonian labour market.⁷²

6.2 Racism and related discrimination in education

6.2.1 Manifestations of racism and related discrimination in education

At present the Estonian education system uses two main languages of instruction: Estonian and Russian. Education in the Estonian language is available at all levels, from nursery school to university, in public and private establishments.

Publicly funded education in Russian is currently available in nursery schools with obligatory Estonian language classes from the age of 3,⁷³ as well as in

⁷⁰ Racism and Discrimination in Estonia 2010-2011, Shadow report, ENAR

⁷¹ Council of Europe Advisory committee on FCNM, Third Opinion on Estonia, adopted on 1.04.2011

⁷² *Ibid.*

⁷³ RT I, 05.05.2008, 18, 124

primary and secondary schools and upper-secondary schools. While Estonian language classes are mandatory at kindergarten, this is often neglected by the administration of the education institutions and also by the relevant state or local authorities and parents. Classes usually take place twice a week and last for 20 minutes. There are not enough teachers qualified to teach very young children. Often these tasks are left to the ordinary kindergarten teacher.⁷⁴ The quality of instruction received is questionable.

Higher and professional education is available with certain restrictions and conditions. Some universities provide education in English, generally in master's degree programmes. Private institutions are free to choose the language of instruction, and the majority use Estonian, Russian and English. Interestingly, in recent years several private universities were invited to merge with publicly funded schools, and in all instances they used Estonian or English as the language of instruction, but never Russian.

On the 1 September 2011, the transition period for reform in Russian-language schools ended. The reform requires that, from the 2011/2012 school year onwards, at least 60% of obligatory subjects in higher secondary education must be taught in Estonian. The remaining 40% may still be taught in Russian. The reform has prompted much discussion among representatives of ethnic minorities, school teachers, psychologists and international organisations. It has been seriously criticised by Russian-language schools, and some Members of the Parliament have sent an open letter to the Prime Minister and the Government criticising the reform and arguing that it violates the Estonian Constitution.⁷⁵

One of the main reasons for this criticism is that schools are not prepared for this reform. Despite the fact that the reform was introduced as early as 2000, when the first Integration programme was adopted the state did not offer much support for improving language training either for school children, or for teachers.

No transitional programmes were implemented to mediate the process and make it more child-friendly and learner-oriented. Insistence that Estonian becomes the language of instruction may come at the expense of the quality of education since textbooks and other learning materials have not been tailored to take into account that many pupils will be learning through their second language. The process has been left largely to the school administration to decide and implement. As a result many schools are not ready for the reform. Many pupils do not have a sufficient command of Estonian to begin using Estonian as a language of instruction. The existing requirements for graduates of the secondary school are lower than the corresponding to studying in Estonian language level, i.e. upon finishing the secondary school at the end of June the level of language proficiency should be B2, yet on the 1 of September when the school starts again and students go to upper-secondary school the level should correspond to C1⁷⁶.

⁷⁴ Interview with the parents at one of Tallinn kinder-gardens, April 2012.

⁷⁵ ERR Uudised (2011).

⁷⁶ See Annex 1: list of abbreviation and terminology

Another concern is the lack of teachers who are capable of teaching their subjects in the Estonian language; in many cases subjects will be taught by teachers who do not themselves speak good Estonian. Many worry that the quality of education will decline among pupils studying in Russian schools which in turn will jeopardise their chances of continuing education at university. This is a significant concern since one of the arguments used by the authorities in favour of the reform is increased access to higher education and greater competitiveness at the labour market.

Unfortunately the government has failed to maintain any kind of dialogue with the representatives of the ethnic minority community or to conduct objective research on the readiness of schools for the reform.

In autumn 2011 several schools (11 from Tallinn and 5 from Narva) following the procedure envisaged in the Act on Secondary School and Upper-Secondary School⁷⁷ - which in par. 73 allows the Board of school trustees to decide on various administrative issues with regards to school life, including development plans and language of instruction- decided to use Russian as the sole language of instruction. One of the reasons given was that the schools are not ready, i.e. there are no teachers capable of instructing through Estonian and the pupils do not have a strong enough command of the language. However, the schools were not allowed to implement these decisions⁷⁸ or even to postpone the transition.⁷⁹

Following these applications, a special commission consisting of representatives of the Ministry of Education and Sciences, local authorities and civil society actors visited the schools in question. The state position was made clear; if schools were not prepared to implement the reform, they should close their upper-secondary classes.⁸⁰

On 30 May 2012 a meeting in front of the Parliament was organised by an NGO Russian School of Estonia. The aim was to support upper-secondary education with Russian as the language of instruction, and also to highlight the constitutional right to choose one's language of education. Several hundreds of people participated in the meeting. The leaders of the organisation then presented a written statement with 35 841 signatures in support of Constitutional right to study in one's mother tongue to the President of Estonia, the Government and the Ministry of Education and Sciences⁸¹.

⁷⁷ Põhikooli- ja gümnaasiumiseadus, RT I 2010, 41, 240

⁷⁸ Haabersti vene gümnaasiumile venekeelseks õppeks loa andmisest keeldumine, RT III 03.02.2012, 2, *et al*

⁷⁹ Kõlvart, M, Vice-Mayor of Tallinn on the cultural and education affairs, interview on 10.09.2012

⁸⁰ Interview with J. Karzetskaja, member of the Board of Trustees at Tallinn Haabersti Gymnasium, January 2012

⁸¹ Russian School in Estonia NGO, 2012, interview on 10.09.2012

The NGO Russian School in Estonia also made an appeal to the OSCE High Commissioner on National Minorities Knut Vollebæk and the EU Commissioner for Human Rights Thomas Hammarberg on 25 March 2011, claiming that there are 'attempts to partly or completely transfer the schools to the Estonian language for education', although 'the Laws of the Republic of Estonia allow Russian population of the country to preserve and develop primary and secondary schools with Russian as the language of education'.⁸² They also complain that there is an 'unjustified oppression of the parents of Russian schoolchildren'.⁸³

In August 2011, the Ministry of Justice explained its decision to transfer the upper-secondary school for those Russian-speaking young people who are in prison to 100% Estonian language education. The Ministry explained that the decision is motivated by a desire to improve young convicts' chances of returning to a normal life after imprisonment. Juta Nugin, Principal of an Upper-secondary school for adults in Tartu whose teachers educate prisoners, considers this to be a violation of the human rights of this group of students. She believes that this approach is unnecessary and stresses that these young people should study under the same framework as other students.⁸⁴

6.2.2 Facilitating factors or protective measures to combat education challenges

The Advisory Committee on FCNM has expressed its concern that the transfer to Estonian as the main language of instruction in secondary schools is going ahead despite the fact that many schools and teachers are not sufficiently prepared for this change.⁸⁵

The Advisory Committee also notes that while the Estonian Integration Strategy acknowledges the significance of education as a tool for integration and mentions the importance of cultural diversity in the school curricula, there are few multicultural elements in the curricula and textbooks; integration activities of schools focus mainly on the promotion of State language skills of non-Estonian-speaking pupils.⁸⁶

In January 2011, the Government of the Republic approved the new national curriculum for primary school and upper secondary school. The curricula will be applied in the period 2011–2013. In the new curricula, the issues of culture and origin of ethnic minorities have been included in the core curriculum as well as in subject syllabi. The national curriculum for primary schools and upper secondary schools emphasises the core values of the Constitution of

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ Russian speaking prisoners will not any longer have a possibility to study in their mother tongue in prisons. <http://rus.delfi.ee>, 28.08.2011

⁸⁵ Council of Europe Advisory Committee on FCNM, Third opinion on Estonia, 11.04.2011

⁸⁶ Council of Europe Advisory Committee on FCNM, Third opinion on Estonia. 11.04.2011

Estonia, Universal Declaration of Human Rights of the UN, Convention on the Rights of the Child as well as those values which underpin the fundamental documents of the European Union.⁸⁷

6.3 Racism and related discrimination in housing

6.3.1 Manifestations of racism and related discrimination in housing

As noted in previous reports, no research has been undertaken regarding equal access to housing. As a result, it has been difficult to assess this topic.

Housing in Estonia is managed predominantly in two ways; by municipal authorities and the private market. Municipal housing is not very developed in Estonia and funds are very limited. Local municipalities are responsible for distributing flats to various categories of disadvantaged citizens. There are no recorded instances of discrimination in this area.

In general the private property market has no restrictions as to who can own or rent property. However, there are some limitations at the national borders. Here the transfer of property is restricted to Estonian and EU citizens and legal entities⁸⁸. Exceptions can be made if this is in the interest of local government.⁸⁹ These provisions limit the rights of those with undefined citizenship (stateless persons), those with permanent residence permits and citizens of the Russian Federation permanently residing on the territory of Estonia. Most of such border areas are located in Ida-Viru region and Chudskoe lake (Peipsi lake) where a high proportion of the population are non-Estonian citizens. In 2011 possible reforms were discussed in parliament. It was hoped that the provisions in question would be revoked and permanent residents of Estonia would have the possibility to buy real estate in the border regions.⁹⁰ However, the new act still contains the same restrictions⁹¹.

Availability of mortgages is still highly dependent on a good credit history and permanent, stable income. Some banks also require that the applicant has a permanent residence permit. Given that income levels among ethnic minority groups are lower than among the majority population, it follows that their ability to access mortgages is more limited.

There is little available research or data on the rental market. Often, owners prefer to let out their properties for long periods of time. This puts immigrants who have come to Estonia for a short period of time (less than a year) or whose legal or employment status is insecure at a disadvantage.

⁸⁷ United Nations (UN), Committee on Economic, Social and Cultural Rights (CESCR) (2011).

⁸⁸ Kinnisasja omandamise kitsendamise seadus, RT I 23.02.2012, 11

⁸⁹ Ibid

⁹⁰ Non-citizens will have a possibility to buy land at the border territories in Estonia, Stalnuhhin, M. 15.09.2011, rus.delfi.ee

⁹¹ Kinnisasja omandamise kitsendamise seadus, RT I, 23.02.2012, 11

There were no reports of instances where Muslims or other visible minorities were rejected as tenants during the period under review. However, such cases were recorded in previous years and have been discussed in other ENAR Shadow reports.⁹²

Most of the concern regarding housing centres on the administration of the 'Union of Flats'.⁹³ Such unions are required to elect a board of administration from its members. Administration must be conducted in the Estonian language⁹⁴ and translation is not obligatory. As a result, important information regarding loans, administration, is often unavailable to those whose knowledge of Estonian is poor. Moreover their ability to participate in decision making regarding the property they own is limited. The Legal Information Centre for Human Rights for 2011, 2012 (until March) had reported a number of cases of this nature. The issue has also attracted media coverage.⁹⁵

The most significant development in the period under review was the publication of a study entitled "Ethnic face of homeless in Tallinn"⁹⁶, prepared by the Tallinn Centre for the Social Work, an organisation which offers various services to the homeless. The study examined the lives and backgrounds of homeless people in Tallinn. 926 persons participated in the project. The following categories of people were classed as homeless: those living in the street, in social centres, at friends' houses, in prison or other temporary residences. Of those questioned only 46 lived in the street and another 100 in trailers, ruined building etc. i.e. structures which are not fit for human inhabitation. 183 were children, none of whom lived in the street. The study revealed that that only 33.6% spoke Estonian as a mother tongue.⁹⁷ The most common reasons for becoming homeless identified included: end of rental contract (very often these concern forced renters⁹⁸) 22.4%, family related issues (18%): divorce, end of a relationship or death of unofficial partner, domestic violence etc., and 17.6% because of debt.

This study is the first time that research has been conducted on this category of people and has confirmed that those persons that belong to ethnic minorities are more vulnerable to become homeless than those belonging to ethnic majority.⁹⁹

⁹² Racism in Estonia 2007, Shadow report, ENAR

⁹³ Union of Flats is a legal requirement; the owners of blocks of flats are required to form such unions in order to run the administration of the house, i.e. payments to service providers including gas and heating, building, cleaning etc.

⁹⁴ Keeleseadus, RT I, 02.07.2012, 13

⁹⁵ LICHR database, 2011-2012 (first quarter)

⁹⁶ Kodutud Tallinnas, Tallinna Sotsiaaltöö keskus, January 2012

⁹⁷ Kodutud Tallinnas, Tallinna Sotsiaaltöö keskus, January 2012

⁹⁸ Forced renters were a result of the process of the Land reform or in other words restitution of property, when property was returned to its previous owners from 1939. Many of those who occupied property and were officially registered there at the moment of restitution to the previous owners became 'forced renters' who rented on whatever terms the owner of the property decided.

⁹⁹ See, Racism and related in discrimination in Estonia 2010, Shadow report, ENAR

6.3.2 Facilitating factors or protective measures to combat housing challenges

In spite of the issues highlighted above, discrimination in access to housing does not appear to be a serious overall problem in Estonia. We are not aware of any measures which have been taken to combat discrimination in housing or to raise awareness of difficulties faced by minority groups in accessing housing. No measures have been taken to tackle the problems created by the Flat Unions or to increase access relevant information for vulnerable groups.

6.4 Racism and related discrimination in health

6.4.1 Manifestations of racism and related discrimination in health

The Constitution of the Estonian Republic guarantees the right to healthcare to everyone, including non-citizens¹⁰⁰. Health services are available free of charge to permanent residents who have health insurance including those insured by the state: retired, children under 19 or those fulfilling full university programme, people with disabilities, pregnant and on maternity leave, registered as unemployed etc. Those in employment are insured by their employer, who pays social income tax; the same applies to the self-employed and those who opt to pay social tax themselves¹⁰¹.

Those with temporary residence permits must either pay for health insurance or, in the case of those who have a work permit and are employed, become insured after a certain period of time after beginning employment¹⁰².

As noted in previous reports, discrimination in access to health is poorly researched and under-documented. State authorities and civil society have expressed little interest in this issue. At present there are no organisations which monitor discrimination in access to health services. Most known cases relating to unequal access to health were brought to public attention through the media. No cases were made public during the period under review.

The language barrier is a major obstacle to access to healthcare for some vulnerable groups. By law, healthcare professionals are required to speak Estonian as this is the only official language and respectively the language of administration¹⁰³. Requirements relating to other languages, including Russian, are decided by the management of each institution. In other cases, the use of foreign languages with patients depends on the good will of the medical personnel themselves. Previous shadow reports (2008, 2009, and

¹⁰⁰ Pohiseadus, 1992, RT 1992, 26, 349, par. 28.

¹⁰¹ www.haigekassa.ee/kindlustatule

¹⁰² Ibid.

¹⁰³ Keeleseadus, RT I 18.03.2011, 1

2010) provide an overview of known cases. Most related to the refusal of doctors or medical personnel to speak in language other than Estonian as well as lower levels of treatment and harassment of patients who do not speak Estonian, including children.

The existing system does not provide for interpreters. The Head of the Board of the Tallinn Union of Doctors and Ministry of Social Affairs has stated that if a patient cannot explain his/her health problems in Estonian, they should bring a relative, friend or colleague to help them to communicate. . 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 German as an alternative, especially because young doctors are rather proficient in these languages'¹⁰⁴. While this statement was made in 2009, there is no reason to believe that the situation has changed since then or that any positive developments have taken place.

No new cases were reported during the period under review. The author believes that while some issues arise in relation to access to healthcare services, the problems are not systemic.

The Advisory Committee on the Framework Convention for the Protection of National Minorities expressed concern in its third opinion on Estonia, adopted in April 2011, that 'in such locations, where the vast majority of the population speaks Russian, appropriate attention should be paid to the Russian-language abilities of civil servants and health personnel, as well as to the adequate representation/inclusion of persons belonging to national minorities among civil servants, health professionals and in other public offices.' The Advisory Committee expresses concern that 'in Ida-Virumaa (Viru County), Russian-speaking health professionals, for instance, are less and less available which constitutes a growing concern for the ageing population in that region.'¹⁰⁵

A study published by the Institute of Baltic Studies in May 2011 examined services provided to asylum seekers residing in Illuka Reception Centre. While the research conducted did not identify any cases of discrimination, several problems regarding access to health services for asylum seekers were highlighted. One of the main problems is the lack of clear regulation and procedures regarding the specific needs of this group.¹⁰⁶ Secondly, the authors noted that asylum seekers who are not proficient in Estonian encounter significant difficulty in accessing health services. The shortage of translators for some non-traditional languages greatly impedes comprehension between doctor and patient.¹⁰⁷

¹⁰⁴ www.stolitsa.ee, Medice, cura te ipsum!, V. Jyrmann, 11.09.2009

¹⁰⁵ Council of Europe Advisory Committee on FCNM, Third Opinion on Estonia, 2011, p. 36.

¹⁰⁶ Kallas, K. and Kaldur, K. (eds.) Eestis rahvusvahelise kaitse saanud isikute hetkeolukord ning integreeritus Eesti uhiskonda, 2011, IBS.

¹⁰⁷ Ibid.

In the report *HIV Epidemic in Estonia: Analysis of Strategic Information* published in 2012 The National Institute for Health Development published a case study that identified the following trends regarding intravenous drug users (IDUs) in Estonia: in Tallinn in 2005 Russian-speaking IDUs constituted 80% and in 2009 85.2% of the total number of IDUs. In Kohtla-Jarve, located in predominantly Russian-speaking Ida-Viru county Russian-speakers were 93.1% and in Narva 92.3%. These were also predominantly men over 30 years of age¹⁰⁸.

Previous reports have noted that most public awareness campaigns addressing issues such as alcoholism, HIV, smoking etc. are carried out predominantly in the Estonian language, which prevents those who do not have an adequate command of Estonian from understanding the content.¹⁰⁹ Available statistics regarding those with HIV indicates that a higher proportion of non-Estonians are HIV positive than Estonians. In 2009 and in the first half of 2010 the 90% of those newly registered as HIV positive were Russian speakers and only 8% were Estonian.¹¹⁰

The number of intravenous drug-users (IDU) among non-Estonian also continues to be much higher than among Estonians. The last data available highlights the following trends: in Tallinn in 2005 Russian-speaking IDUs constituted 80% of the total number of IDUs. By 2009 this had risen to 85.2%. In Kohtla-Jarve, located in predominantly Russian-speaking Ida-Viru county they were 93.1% of the total number of IDUs and 92.3% in Narva. These were also predominantly men, over 30 years of age.¹¹¹

No data was available regarding access to health services for members of the Muslim community.

6.4.2 Facilitating factors or protective measures to combat health inequalities

No preventive measures have been taken in order to combat health inequalities in Estonia during the period under review.

While equal treatment in health is under-researched, it appears that there is some disparity in levels of access across linguistic and ethnic groups.

¹⁰⁸ Rüütel, K., Trummal, A., Salekesin, M., Pervilhac, C., "HIV epidemic in Estonia: Analysis of Strategic Information", Case study, , TAI 2012

¹⁰⁹ Racism and related discrimination in Estonia 2010, Shadow report, ENAR

¹¹⁰ Written communication with the Ministry of Social affairs, 07.06.2010

¹¹¹ Rüütel, K., Trummal, A., Salekesin, M., Pervilhac C. "HIV epidemic in Estonia: Analysis of Strategic Information", Case study, TAI 2012

6.5 Racism and related discrimination in access to goods and services

6.5.1 Manifestations of racism and related discrimination with access to goods and services in the public and private sector

Equal access to goods and services is protected by the Equal Treatment Act which entered into force on January 1, 2009.¹¹² However, very few cases have been publicised. While some instances are reported via media or to NGOs and equality bodies, often, little is done to follow up.

The Chancellor of Justice which has a mandate to deal with complaints relating to equal treatment, reported that in 2011 one case was reported which related to access to goods and services. The complainant alleged that he had encountered discrimination after he was refused entry to a cafeteria presumably because of his ethnic origin and skin colour. The Chancellor of Justice considered the case but then redirected the complainant to the civil courts.¹¹³

No research has been conducted on equality of access to goods and services. As noted in previous reports, there are some concerns relating to language barriers and hostility on the part of individual service providers.

Last year's Shadow Report highlighted the fact that free legal aid is rarely available in Russian as most of the initiatives or projects supported by the state are aimed at Estonian-speakers or those proficient in that language. The Estonian Bar Association has taken action to address this issue. In 2011 and at the beginning of 2012 several well-advertised initiatives were launched, aimed at providing free legal aid in Russian. These include initiatives by the Bar associations and projects supported by the Ministry of Justice. The projects are called Legal Pharmacies and are available in several major cities.¹¹⁴

In February 2012 there was considerable controversy in the media after it became known that legal acts will no longer be translated into the Russian language. In fact this service has not been available for several years already, but the most important legal acts have been translated nonetheless. While translations will still be available from private sources, these are often of low quality and are expensive. When justifying the decision, the Ministry of Justice explained that translation costs are high and there is little demand for translated laws.¹¹⁵ This practice will further decrease knowledge among citizens about their rights and responsibilities and increase distrust in the

¹¹² Võrdse kohtlemise seadus, RT I, 2008, 56, 315

¹¹³ Written communication with the Chancellor of Justice, 01.02.2012

¹¹⁴ Ministry of Justice, www.just.ee 2011, 2012

¹¹⁵ Legal Acts will be available in Russian only for a fee, <http://rus.err.ee/estonia/6d60cdb8-d518-42e3-a42a-9628e15abc12>, 08.01.2012

Estonian legal system.¹¹⁶ It is also clear that access to justice for those not proficient in Estonian will become even more limited.¹¹⁷

The private sector is more flexible than the public sector regarding the language of communication.

While hostility arises over language of communication more often than over skin colour, it is still comparatively rare.

Information provided by the public sector is generally available in Russian in major cities (for example in the institutions of local government, information stands, pension departments, migration bureau, police etc.), however it often depends on the attitude and knowledge of the language of the civil servant/employer her/himself.

6.6 Racism and related discrimination in political participation

6.6.1 Manifestations of racism and related discrimination in the realm of political participation

Mass statelessness is a major issue for many members of ethnic minority groups in Estonia. The problem is less significant today than it was in the early 90s when, in the aftermath of independence, Estonia based its integration and migration related policies on very nationalistic values.

In 1992 the Transitional government of Estonia adopted the regulation regarding implementation of the Citizenship Act, according to which only those who were citizens or who are descendants of citizens of the Republic of Estonia during the interwar period are entitled to Estonian citizenship¹¹⁸. Everyone else was obliged to undergo naturalisation procedures even if they had been born in Estonia. This decision was unpopular among non-Estonians who felt frustrated and offended at being considered second-class citizens in a country where many of them had lived for decades. Further difficulties were raised by the requirement of Estonian language proficiency as a condition for naturalisation. This was a significant obstacle for many non-Estonians. Several other groups of people were denied the possibility of becoming Estonian citizens including former military servants, KGB staff (including typists, cleaners, drivers etc.) and some others including their spouses and dependents.¹¹⁹ The result of these policies was that a number of permanent

¹¹⁶ Regnum media at www.regnum.ru, Interview with J. Kovalenko, ENAR-Estonia, on 11.01.2012

¹¹⁷ At the moment the administration of courts is conducted in the Estonian language, translation of court decisions is no longer available free of charge. In order to receive free state legal aid/representation an application must be submitted in Estonian language or in English, but not Russian. For more details, see ENAR Shadow report on Estonia 2010/2011.

¹¹⁸ RT, 1992, 7, 109, Regulation on the Implementation of Citizenship Act

¹¹⁹ For more information please consult the previous ENAR Shadow reports on Estonia where naturalization and integration practices are described in detail.

residents of Estonia were excluded from the naturalisation process. Some chose to take citizenship of other countries with which they had some connection (in most of the cases these were former Soviet Republics from which they originated). Others remained stateless. Initially the latter group was very large, but gradually this number has decreased.

At the moment 15.6% of the total population of Estonia have the citizenship of another country, among those 1.1% are EU citizens 7.6% are citizens of third countries (mostly from Russia); and 7.6% are stateless¹²⁰.

The year 2011 marks the first time - since the adoption of Estonia's current citizenship policy in 1992 - that the number of people with undetermined (undefined) citizenship dropped below 100,000.¹²¹ In fact, the naturalisation rate has been slowing since 2005; in 2011 the number of newly naturalised persons was the lowest in the last decade (784 persons compared to 1184 persons in 2010).¹²²

Table 4: Naturalisation rate according to person's previous citizenship (10 main countries).¹²³

Country / Year	2010	2011
Undetermined citizenship	1080	781
Russian Federation	74	73
Ukraine	17	4
Belorussia	2	1
Azerbaijan	2	0
India	2	0
Kazakhstan	1	1
Latvia	0	1
Moldova	2	0
Georgia	1	0
Uzbekistan	1	0
Pakistan	1	0
China	1	0
Spain	0	1
Total	1184	784

The number of people with undefined citizenship in Estonia, especially stateless children, has also raised some public concern. The UNHCR, launched a global campaign to combat statelessness in May 2011. In the course of this campaign the handbook *Nationality and Statelessness: A Handbook for Parliamentarians* was translated into Estonian. The campaign also aimed to promote the two Statelessness Conventions and encourage Estonia to accede to them. During this campaign, UNHCR proposed that all children born in Estonia after the year 1991 should be given citizenship automatically.¹²⁴ This statement has reopened a decades-old political debate in Estonia on the question of citizenship for former citizens of the Soviet Union. The government stated in its coalition agreement, signed in April 2011,

¹²⁰ Data from the Rahvastikuregister

¹²¹ Estonia, Ministry of the Interior (2011).

¹²² Estonia, Police and Border Guard (2011).

¹²³ Estonia, Police and Border Guard (2011).

¹²⁴ United Nations (UN), High Commissioner for Refugees (HCR) (2011).

that the basic principles of Estonian citizenship policy will not be changed.¹²⁵ The government has stated that all children who were born in Estonia to parents with undetermined citizenship can acquire citizenship without any additional conditions, hence, no changes are needed in the citizenship law.¹²⁶ However, this rule applies only to those children for whom both parents have undefined citizenship. Where one of the parents is a citizen of any third country this rule is not valid¹²⁷.

The undefined status of persons residing on the territory of Estonia, is often equated with that of third-country nationals (TCN). This group of people do not enjoy the same rights as Estonian citizens; their right to political participation is limited as is their access to employment and social benefits such as pensions. The vulnerability of stateless person to long-term unemployment has already been discussed in this report. See page 15.

Significantly, persons with undefined citizenship and TCNs who hold permanent residence permits are allowed to vote at the municipal elections, but cannot stand for elections themselves or even become members of political parties. Political participation of TCNs is high in Estonia; 63% of the stateless persons participated in municipal elections of 2009 as did 75% of Russians citizens.¹²⁸

Participation in the state administration among TCNs is also restricted because Estonian citizenship is required for certain government jobs. For example, TCNs may not work in the government, police or as a judge. Thus, political activity for non-citizens is largely confined to civil society and the private sector.¹²⁹

While TCNs may only vote at municipal elections they can indirectly participate in the elections of the President of the Republic. This can happen where the Parliament fails to elect a new president as was the case in 2006. When this occurs the President is elected by the Electors' Assembly consisting of 345 persons including members of Parliament and municipal officials. Local authorities are generally cases elected with the participation of TCNs¹³⁰.

The direct political participation of ethnic minorities in Estonia is limited. The 90s, and the beginning of 2000 saw strong political movements, i.e. parties representing ethnic minorities (for example the United Peoples Party of Estonia later renamed the Constitutional party, Russian Party of Estonia previously Russian Union of Estonia and some others) gain some power in the local administration and even Parliament. However, at present this situation has changed and none of these political parties is currently

¹²⁵ Estonia, Government of Estonia (2011).

¹²⁶ ERR Uudised (2011).

¹²⁷ Kodakondsuseseadus, RT I 1995, 12, 122

¹²⁸ Political Participation of Third Country Nationals in Estonia, Latvia and Poland, M. Golubeva, Providus, May 2011

¹²⁹ Ibid.

¹³⁰ Ibid.

represented at on the political stage, moreover the Russian party of Estonia united with the Social democratic Party of Estonia in 2012¹³¹ .

Major political parties have Russian-speaking branches registered either informally or formally. Nonetheless the number of minority representatives elected to local or national parliaments is very small and in practice these groups only become active shortly before elections. It is doubtful that the Russian speaking branches have any real influence on the agenda of their parties. It can be surmised that in most cases Russian-speaking branches of political parties are used only to attract the Russian-speaking electorate and win votes.

At present only 10 members of Parliament out of 101 are members of ethnic or linguistic minority groups.¹³² Most of them belong to the political party Centre (Centrist Party) which is considered to be pro-minority. A large proportion of its members are from ethnic minority groups and it represents some of the interests of these communities.

The Centre for Public Policy Providus has interviewed the leading political parties of the coalition (the Party of Reform and the Pro Patria and ResPublica Union) regarding their opinion on political participation of immigrants (and TCNs more generally). The following attitudes have been revealed:

Both parties considered the current integration, migration and naturalisation policies to be relevant and reasonable and therefore no changes are strongly needed. Yet immigration as such was seen rather negatively if not threatening. The statements of both parties regarding political participation of third country nationals demonstrated lack of understanding of the nature of participation, the fact that is not limited to citizenship, and identified the perception that it is “wrong” when the third country nationals can influence policies. It was stated for example “The state should have a dialogue with the immigrant organisations, but they should not have a say in the formulations of policies. Political decisions should be made by citizens” (Pro Patria MP).¹³³

Nevertheless, representatives of both parties supported the participation of third country nationals in local elections, i.e. influencing the local policies that influence their everyday life. Yet there is still “no commitment or even openness toward greater participation of TCN in political life. Moreover it is seen as “unnecessary” that third country nationals should create associations advocating “their own immigrant topics” (MP. Estonian Party of Reform)”¹³⁴.

¹³¹ <http://www.sotsdem.ee/sotsiaaldemokraadid-ja-vene-erakond-astusid-suure-sammuhinemise-suunas/>

¹³² Data retrieved from the official website of the Parliament, <http://riigikogu.ee/index.php?id=31555>

¹³³ Political Participation of Third Country Nationals in Estonia, Latvia and Poland, M. Golubeva, Providus, May 2011, p. 18

¹³⁴ Ibid.

Participation of TCNs and ethnic minorities more generally in civil society organisations is limited. Most of the ethnic minorities and TCNs participate in cultural organisations whose main activities is promotion and preservation of the national culture and traditions and having no political agenda at all. For example they run Sunday schools, organise cultural events, create and run folklore groups etc. The number of organisations active in the promotion of tolerance, integration and equal treatment is not significant. Only a few make political statements or engage in advocacy and lobbying

In the course of the study mentioned above, Providus also interviewed Immigrant NGOs about their hopes for the development of political participation among immigrants and the main challenges in this process:

The interviewed NGO representatives' views regarding the openness of Estonian political elite towards NGO integration have also varied considerably. One representative (of an organisation mostly consisting of Estonian citizens, and citizens only in the Board) has stated that 'in general the political elite in Estonia is open towards the participation of immigrants in policy debates and in politics'. But the representative of another organisation (mixed membership and also mixed Board) has stated that the political elite is closed towards immigrants' participation.

Interviewees - including representatives of government institutions dealing with immigrants – have stated that lack of Estonian language proficiency may be a serious barrier to participation in any form of political life in Estonia, including membership in bigger civil society organisations. Some have pointed out that, when there is no sufficient Estonian language proficiency, the only participation possible is 'directed towards another country', implying Russia.¹³⁵

6.6.2 Facilitating factors or protective measures to promote equality in political participation

No action has been taken to promote diversity in the area of political participation.

Attempts to promote political participation of underrepresented groups only ever occur shortly before elections. The aim of these efforts is to gain more votes from minority voters, rather than to tackle the issues which these communities face.

The political slogans and promises of the same political party often differ to a great extent depending on whether they are addressing an ethnic minority or the majority population. There were no elections during the period under review.

Major political parties have so-called Russian divisions, some of which are very active such as the Social Democrats. Nonetheless, very few non-Estonians are placed on top of election lists.

¹³⁵ Political Participation of Third Country Nationals in Estonia, Latvia and Poland, M. Golubeva, Providus, May 2011, p. 22

There is no data or evidence that MPG toolkit on leveraging diversity in parliaments and political bodies has been implemented. Neither does the author believe that any discussions in this regard have been held. Changes in the Estonian context tend to take place only when there is pressure from the EU or other international bodies.

6.7 Racism and related discrimination in media

6.7.1 Manifestations of racism and related discrimination in the media, including the internet

Ethnic and religious minorities receive relatively little media coverage in Estonia. Coverage which they do receive tends to be sensationalised. This is due to low public demand for coverage of minority groups. However, in recent years so called 'ordered' publications began to appear.¹³⁶ They are published within the context of various project activities, particularly in the context of the promotion of integration of third country nationals. They are aimed to show the 'migrant face' and, in doing so, to promote diversity.

There are extremely few articles addressing the Muslim community in Estonia. However, coverage does not seem to be particularly negative or to promote Islamophobic views. Most of the press attention concerned public debates over halal-meat. It was argued that this way of killing animals is not very humane and should be completely prohibited in Estonia.¹³⁷

One major concern, as noted in previous shadow reports (2007 and 2008) and in other studies, is that the Estonian-speaking media does not see ethnic minorities and migrants as a source of expert information. Even when a story relates to issues concerning minorities, many journalists prefer to interview 'trusted sources' from authorities or civil society who may have no knowledge about a particular problem rather than asking leaders from minority communities or members of civil society. This finding was also highlighted in a media study, published in May 2012 in the context of an international project in which Estonia was a participant, carried out by the University of Tallinn¹³⁸.

There is no specific regulation of what constitutes public media and whether or not social media should be considered to be a part of it. Discussion is ongoing in this regard, though it is generally focused on the tension between freedom of expression and the prohibition of hate speech. This discussion is

¹³⁶ 'Ordered publications' refers to the practice whereby individuals use financial or personal influence with the media to have their views published.

¹³⁷ Eesti Moslemid lihahadas, 27.10.2011, Eesti Paevaleht

¹³⁸ University: Minorities are not given a word to say in the articles addressing themselves, <http://rus.delfi.ee/daily/estonia/universitet-menshinstvam-ne-dayut-slova-v-statyah-kotorye-napisany-o-nih.d?id=64336641>, 02.05.2012

generally initiated by human rights activists due to concerns over the role of social media in inciting public hatred. Freedom of expression appears to be prevailing at the moment, at least in the context of social media. The aim of these discussions is to identify how best to tackle hate speech, for example, by introducing more flexible legal provisions.

Social media are more problematic than more traditional forms of media as they are largely uncontrolled. No codes of conduct are being implemented in this area.

6.7.2 Facilitating factors or protective measures in the media

There are no protective measures in the media other than the option of lodging a complaint to the journalists' ethics council where the Code of Journalistic Ethics has been violated. This only concerns public media, not social media.

No specific measures have been undertaken to promote the involvement of journalists from minority groups in the media, nor have there been any discussions in this regard. This is partially due to the fact that the Russian-speaking media has its own niche – there are Russian speaking TV channels, radio and newspapers - and therefore there is no need to employ journalists that would address the minority population. Yet, at the same time there are few non-Estonian journalists working for the Estonian media companies. This may be a result of the highly competitive nature of journalism as well as language barriers.

6.8 Racism and related discrimination in criminal justice

6.8.1 Policing and ethnic profiling¹³⁹

While there is no data available, the author believes that ethnic profiling is not a major issue in Estonia. There may be some tensions concerning border controls where border guards are more likely to scrutinise passengers of Asian or African descent than Europeans. It has also been suggested that the police are more likely to believe native Estonians than foreign nationals when difficulties occur. For example, the 2007 Shadow Report discussed a case in which the police were inclined to believe the complaint of an Estonian woman that her Moroccan son-in-law was abusing this wife, despite the lack of evidence to support her claim. However, the author of this report believes that these examples reflect personal prejudices on the part of police or border guards rather than a policy enforced by institutions.

¹³⁹ The Open Society Institute defines “ethnic profiling” as the “use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity” .

Politicians, high profile city authorities and human rights defenders working to promote the rights of ethnic minorities in Estonia can be vulnerable to profiling by the police. This is clear from the Security Police Annual Report for 2011¹⁴⁰, published in 2012. This publication relies on unfounded allegations and is highly politically motivated. Prominent journalists and academics and some politicians have likened the report to the work of the tabloid press.¹⁴¹ The report claimed that those politicians who have openly expressed support for ethnic minorities or who oppose the reform of Russian speaking schools are acting against the State. Human rights defenders, civil society members as well as journalists and researchers who have brought public attention to issues of discrimination, have been explicitly listed as threats to the constitutional order.¹⁴² Several of the individuals named in the report have lodged complaints before the administrative court requesting that their names be removed from the report, hoping to end the harassment they have experienced in the aftermath of the report. The court has rejected most of these complaints, at least at first instance.¹⁴³

Estonian Security Police keeps tight control over the anti-fascist movements and human rights defenders working for the promotion of ethnic minority rights.¹⁴⁴

The reasons for such control are not really understood since these organisations and individuals do not usually engage in or incite violence.

There is no specific regulation with regard to the status and protection of human rights defenders in Estonia. As mentioned in the 2010-2011 report, the Estonian state does not see the need for such regulation since Estonia is a democratic state and has ratified international human rights conventions.¹⁴⁵

One instance of ethnic profiling became known in 2011 and was made public by the Gender Equality and Equal Treatment Commissioner. Organisers of a famous Saaremaa Marathon had refused to register six athletes from Africa. At first the runners were promised support in securing a visa and the relevant documentation was prepared. However, one of the organisers Tõnu Vaher later informed the athletes that it was not possible to produce the letter of invitation required for a visa. In response to an enquiry by the Commissioner Vaher claimed that this decision has been made after consultation with colleagues who had had experience with African athletes in the past. He was persuaded that the real motivation for these Africans to come to Estonia was not participation in the event, but rather to receive a visa to enter the Schengen zone and then to remain there illegally. In support of his belief he added that the prize money for a regional marathon is definitely not sufficient

¹⁴⁰ KAPO Annual report 2011, published in 2012

¹⁴¹ Anvelt: annual report of the Security Police should not become a tabloid. www.dzd.ee, 19.04.2012

¹⁴² KAPO Annual report 2011, published in 2012.

¹⁴³ The Court rejected the complaint of Jana Toom against the Security Police in which she asked to delete her name from the annual report <http://rus.postimees.ee/847506/jane-toom-otkazano-v-udalenii-ee-imeni-iz-setevoj-versii-ezhegodnika-kapo>, 20.05.2012

¹⁴⁴ Ibid

¹⁴⁵ Racism and Discrimination in Estonia 2010-2011, Shadow report, ENAR, 2012

to attract the participation of true sportsmen from such remote countries. The Commissioner is of the opinion that this is a case of racial profiling and must be taken under control.¹⁴⁶ This is the first occasion on which the Commissioner expressed an opinion on possible racial motives and the first public case involving potential ethnic profiling.

There is no data concerning ethnic profiling of members of the Muslim community. No such cases have been reported to civil society organisations. Community leaders interviewed did not report that this was an issue.

6.8.2 Racist violence and crime

There have been no legal or political developments with regards to hate crime during the period covered by this report. According to the Ministry of Justice, an act amending the current legislation based on Framework Decision 2008/917/JHA on combating certain forms and expressions of racism and xenophobia by means of the criminal law was prepared some time ago but has still not been submitted for the round of approvals. The exact content is thus not public and no information is available regarding plans for implementation.¹⁴⁷ It is believed that the provisions regarding public incitement to hatred will be improved and also that racial motivation will be considered an aggravating factor in sentencing.

No instances of racist violence have been investigated or prosecuted.¹⁴⁸ However, the Estonian Student Union drew public attention to a case in which an exchange student from Cameroon was allegedly beaten up in the university town of Tartu.¹⁴⁹ The student union noted that similar incidents have taken place in the past, commenting that these cases were reported to the police but racial motive was not recorded.

Most known cases of racially motivated crime or hate speech are brought to public attention through the media or NGOs. At present there is no organisation dedicated registering such crimes or providing support to victims. Data on crimes in general are collected through a *Public e-File* system which also classifies crimes according to motivation, such as racial, ethnic, homophobic or religious-based.¹⁵⁰ Classification is not systematic or mandatory. Racially motivated crimes are sometimes recorded without reference to the motive. Thus it is impossible to provide exact statistics on racially motivated crime.¹⁵¹

In its report on Estonia, published in 2011, the UN Human Rights Council (UNHRC) found that very few criminal offences are committed on grounds of

¹⁴⁶ Race organisers grilled by the Equality Commissioner over racial profiling, www.err.news.ee, 07.11.2011

¹⁴⁷ Ministry of Justice, communication

¹⁴⁸ Ministry of Justice, communication

¹⁴⁹ Kameruni tudeng ei lahku Eestist tagakiusamise tõttu, Tartu Postimees, 31.05.2011

¹⁵⁰ Communication with the Ministry of Justice 2011

¹⁵¹ Kalmet, T. (2011).

ethnicity, culture, language or religion in Estonia.¹⁵² UNHRC recommended the addition of specific the anti-discrimination provisions in the Penal Code and the introduction of measures to improve their implementation, since §151 (Incitement of hatred) requires damaging consequences (i.e. there should be a danger to the life, health or property of a person). UNHRC explained that proving a causal link between hate speech and the resulting damaging consequences is impossible in most cases and recommends that incitement to hatred should not be linked to the requirement of damaging consequences¹⁵³.

ODIHR published a report on hate crimes in 2011. It considered hate crimes against Muslims in a number of countries. There was little information concerning Estonia in the report.¹⁵⁴ The report mentioned that since 2008 only 2 cases of incitement of hatred have been registered by the police; however no prosecutions have been made.¹⁵⁵

With regard to Estonia, ECRI noted the need for increased awareness within the police force of the problem of racist crimes and recommended that 'police thoroughly investigate racist crime' and that the 'authorities establish and operate a system for recording and monitoring racist incidents'.¹⁵⁶

6.8.3 Hate speech

Hate speech is not specifically addressed in Estonia. While it falls under the prohibition of incitement to hatred, hate speech itself is not defined. There is little public awareness of the issue. Few measures have been taken to counter this problem. Hate speech is prevalent in social media, online comments and blogs.

In August 2011 a case concerning hate speech in a blog was decided by the court.¹⁵⁷ It was qualified not as a crime but a misdemeanour and the perpetrator was punished with the fine. Notably, the case concerned hate speech by a non-Estonian towards Estonians.¹⁵⁸ This was the first decision on hate speech since the Criminal Code was amended in 2006 to provide that incitement to hatred is a criminal offence only where the claimant can prove that his/her life, health or property have been put at risk.¹⁵⁹

In 2011, the Ministry of Justice published a study based on research conducted by the University of Tallinn and University of Tartu about racism and xenophobia in Estonia.¹⁶⁰ While the research was conducted in 2007, the report was not published until 2011. The study revealed that 22% of the

¹⁵² United Nations (UN), Human Rights Council (2011).

¹⁵³ *Ibid.*

¹⁵⁴ Tandis.odihhr.pl/hcr2010

¹⁵⁵ *Ibid.*

¹⁵⁶ ECRI 4-th report on Estonia, 02.03.2010

¹⁵⁷ Communication with the Police and Border Department

¹⁵⁸ Rus.delfi.ee, accessed

¹⁵⁹ Criminal Code, art. 151, RT I, 04.04.2012, 3

¹⁶⁰ *Rassi- ja võõravimm Eestis*, Laineste, L. *et al*, Tallinn, Justiitsministeerium.

Estonian population have witnessed or experienced discrimination based on race, nationality or religion. Among Estonians, 46% of the people believe that immigrants increase criminal activity. In online hate speech in the Estonian language the main victims are Russians, followed by Roma and Christians. However, according to the report, hate speech in the form of Internet comments has not increased significantly from 2000 to 2007.¹⁶¹

6.8.4 Counter terrorism

As noted in previous Shadow Reports, Estonia is not seen as a target country for terrorists.

According to official rhetoric no countries or ethnic groups are considered to constitute a threat to Estonia. However during the last few years the Estonian Security Police has paid increased attention to the Muslim community and in particular newly arriving Muslim immigrants. It was stated in the Annual report that there might be cases where leaders of radical groups are trying to recruit the Estonian Muslim as part of their terrorist plans¹⁶².

¹⁶¹ *Ibid.*

¹⁶² KAPO, Annual Report 2011, p. 22

7. Civil society assessment and critique in ensuring protection of fundamental rights

This report presents a critical assessment of developments which took place with regards to racism and related discrimination in Estonia between March 2011 and March 2012. The rise of racism and ethnic discrimination are highly politicised.

Attempts to raise awareness of the difficulties faced by ethnic minority groups are often received negatively by the general public, state authorities and politicians.

Political parties still appeal nationalist sentiments to promote their views. Ethnic minorities residing in Estonia are seen as immigrants, even if they have been living in Estonia for several generations.

This attitude is displayed on social media, in online comments and through the inadequate responses of public authorities to the issues of racism and related discrimination. A worrying example of this attitude is the Annual Report of the Security Police which lists activists and human rights defenders as threats to the constitutional order. The report is characterised by false statements, misinformation and unproved allegations. Its aim is to discredit these individuals and organisations, to prevent them from receiving funding for their activities. The 2011 report also accused several high profile politicians who are renowned for their pro-minority, anti-racist work of engaging in anti-state activities, being guided by the 'Kremlin' etc. No proof of these allegations was provided.¹⁶³

While Estonia has harmonised its anti-discrimination legislation with the EU requirements little has been done in practice to promote these principles. Most of the campaigns carried out with the aim of promoting and protecting equal treatment are in the Estonian language, in spite of the fact that many of those who would benefit from these measures have only a poor command of Estonian. This may also be a contributing factor to the low number of discrimination cases on the grounds of ethnicity before the courts and equality bodies. The same issue applies to most public awareness campaigns (including those concerning HIV, drug addiction, alcohol addiction etc.) as well as some government services.

It appears the state has little interest in conducting research into the needs and problems of ethnic minorities. Nor does it recognise minority groups to be experts on the difficulties they face and prefers to impose the opinions of the majority population.

Unfortunately, lack of funding combined with the consequences of the Security Police Report have meant that many NGOs have shut down or have become over dependent on existing funding i.e. many NGOs must focus on

¹⁶³ <http://rus.delfi.ee>

the activities for which they can secure funding rather than those which are needed most.

8. Good practices

Unfortunately there are very few examples of good practices in the area of anti-racism and anti-ethnic discrimination. Very few organisations deal with these issues. There is very little public funding for human rights issues. Most of the projects in this area are funded within various EU programmes. However, it has become more difficult to obtain funding from these sources due to stricter requirements regarding the minimum cost of the project and an increase in the required percentage of co-funding.

As a result, the few anti-discrimination/racism NGOs in operation struggle to fund large-scale projects and sustainable activities.

Example of NGO Good Practice in Employment

In 2011 the Law Institute of the Tallinn Technical University in cooperation with the Human Rights Centre Foundation launched an online tool – Compass of Discrimination <http://www.erinevusrikastab.ee/kompass/>. This tool is targeted at anyone who believes they may have encountered discrimination. By answering specific questions one can quickly get an idea whether a case is discriminatory or not. Where discrimination is “identified” the “victim” is invited to come for a free legal aid consultation provided by lawyers. This project is managed within the framework of the project “Diversity Enriches” supported by PROGRESS funding¹⁶⁴.

This tool can be used for all areas of discrimination, not only employment.

Example of NGO Good Practice in Promoting Political Participation

The Institute of Baltic Studies is implementing a project that is targeted at young (16 – 18 years old) Russian-speakers in Narva city. The aim of the project is to provide information, motivation and support to encourage the target groups to become more active in civil society and in the political process. The project also aims to draw attention to some of the problems faced by young people from minority groups and to initiate discussions in which they themselves will be actively involved. The project uses the ‘Citizens’ panel’ method, which in itself is very innovative for Estonia. The project also involves the publication of a manual based on the method used as well as research on awareness levels among young Russian speakers from Narva of their fundamental rights and possibilities for political and civic participation. The participants in the project formulated recommendations for the

¹⁶⁴ <http://humanrights.ee/tegevus/vordne-kohtlemine/noustamine/kontrolli-kas-sind-on-diskrimineeritud>

improvement of participation of young people from minority groups in the democratic process.¹⁶⁵ The project is supported by the National Foundation of Civil Society.

¹⁶⁵ Information provided by the Institute of Baltic Studies, available also from: <http://www.ibs.ee/et/publikatsioonid/item/112-noorte-kodanike-paneel-poliitika-on-lahe>

9. National recommendations

General:

- Conduct detailed research covering various areas that are relevant ethnic minorities and immigrants in Estonia, paying special attention to the issue of multiple discrimination
- Greater involvement of civil society in consultation processes with the state on matters related to developing new anti-discrimination policies, amending existing laws or planning studies and research.
- Allocate funding for civil society organisations which provide practical support to victims of discrimination and to those who raise awareness of issues relating to equal treatment etc.
- Develop and implement awareness raising campaigns covering issues of discrimination in general, protection mechanisms, and contact details of organisation which can provide support. Such campaigns should be managed in Estonian, English and Russian
- Amend the mandate of the Estonian equality body in order to fully comply with the Paris principles. Increase the powers of the Chancellor of Justice to deal effectively with discrimination complaints
- Include ethnic discrimination and racism in the list of national priorities in coming years.

Special Focus: Muslim Communities

- Further research should be conducted into possible difficulties faced by those of Islamic faith in participating in social and political life.
- Food-related regulations should be revised to ensure access to halal meat.

Employment

- Recruitment practices should be thoroughly revised so that applicants need not reveal their ethnic identity.
- Awareness campaigns on discrimination should be carried out, targeting employers and job seekers.
- Language proficiency requirement should be revised taking into consideration the principle of proportionality.
- The State should engage in dialogue with experts from a variety of backgrounds to ensure that national policies promote social inclusion.

Education

- The State and Civil society must carry out thorough research on how the reform of the upper-secondary school will influence the quality of education
- The State and civil society must ensure constructive dialogue between all interested parties and find a compromise on the issue of language reform.

Housing

- Regulate the system of flat owners unions in such a way that all members are able to participate in administration and understand the relevant documents.
- Provisions regulating the sale of property in the border regions should be reviewed in order to address the needs of long term residents.
- Steps should be taken to tackle the issue of homelessness. Any measures taken should be equally available to non-Estonian speakers

Health

- Research should be conducted into equality of access to healthcare. The views of both Estonians and non-Estonians should be considered.
- The needs of linguistic minorities should be taken into consideration by medical institutions. Proficiency in Russian or/and English knowledge should be requested or at least encouraged from healthcare workers.
- Healthcare workers should receive obligatory training on diversity, including information on religious sensitivities.
- Information about medication and prescriptions should be available in Russian
- Adequate healthcare facilities should be guaranteed to the asylum seekers and to undocumented migrants.
- Interpretation services should be available in hospitals and emergency centres

Access to goods and services

- More efforts should be made to provide for equal access to public goods and services, especially to those which are provided by the state and municipality
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Criminal justice

- Racial motivation should be considered an aggravating factor at the sentencing stage.
- Create a comprehensive system to monitor, investigate and collect data collection on racially motivated crime.
- Provide guidelines for the judiciary and law enforcement when dealing with racially motivated crime.
- Amend legislation to better enable prosecution of hate speech and incitement to public hatred without the current requirement that damaging consequences be proven.
- Introduce measures and codes of conduct aimed at preventing harassment of human rights defenders

Media

- Rules and codes of conduct for the use of social media should be developed
- Hate speech through social media should be monitored.
- Journalists should be encouraged to publish opinions from minority groups and to recognise minority groups as the primary source of information when addressing issues which concern them.

10. Conclusion

This report has highlighted that while EU anti-discrimination requirements have been transposed into national legislation, implementation so far leaves considerable room for improvement. Legal reform alone is not enough. To date state authorities and civil society have been rather reluctant to address the issues of racism and related discrimination. Recognising the difficulties faced by minority groups would be at odds with the populist, nationalist rhetoric used by many political parties. In addition, civil society actors are afraid of possible reprisal including funding cuts when they engage in activities which are critical of the government.

There have been few changes during the period under review. There has been little research conducted into the situation faced by minority groups or the impact of existing legislation and policies. Increased data collection is needed in order to campaign for reform and to monitor discriminatory practices.

At present, few cases are reported, there is no body of case law and little has been done to raise awareness of rights among vulnerable groups or to provide support for victims of discrimination.

As a result of funding cuts as well as the impact of the Security Police report there are practically no civil society organisations left who are dedicated to the issue in general and are involved in advocacy and campaigning for change.

As this report has highlighted, establishing the conditions for dialogue between various communities, state authorities, experts, politicians and civil society is of vital importance. It is also very important that the voice of ethnic minorities be heard and their opinion and needs are taken into consideration, even if their position is an unpopular one.

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Annex 1: List of abbreviations and terminology

IDU – intravenous drug users

FCNM – Framework Convention on Protection of National Minorities

LICHR – NGO Legal Information Centre for Human Rights

OECD – Organisation for Economic Co-operation and Democracy

TCN – third country nationals

A1 – C2 Estonian language proficiency levels where: A1 – is the very basic level, normally for those whose previous knowledge equals to “0”, followed by A2 – a bit higher level when the language user can understand and use sentences in order to express him/herself in everyday situations; B1 – required for long-term residents permit and citizenship and many occupations; B2; C1 – the highest level of proficiency, for which the exam can be taken; language user can understand professional texts, hold conversations, understand difficult constructions and idioms, understands the hidden context, etc. This level is required for a number of professions including medicine, law and the police force.; C2 – equivalent of mother tongue level.

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 counties.

Person with undefined (undetermined) citizenship/stateless persons - In Estonian context, these people have been the citizens of the USSR, but due to Estonian policies after regaining independence they on some reason did not want or could not receive the citizenship of Estonia or any other state. They are holding a specific passport that can be referred as “grey” passport due to its colour or “aliens passport”.

