

## **Council of Europe contribution for the 24<sup>th</sup> UPR session regarding Estonia**

### **Prevention of torture**

On 21 January 2014, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its visit to Estonia from 30 May to 6 June 2012, together with the Estonian Government's response (both documents are attached below).

In the course of the 2012 visit, the CPT's delegation received almost no allegations of physical ill-treatment of persons detained by the **police**; practically all the detained persons interviewed by the delegation who were or had recently been in police custody said that they had been treated correctly. However, the delegation did receive a few isolated allegations of excessive use of force (such as kicks, punches, tight handcuffing) by police officers at the time of apprehension, after the person concerned had been brought under control. Recommendations are made aimed at strengthening the formal safeguards against ill-treatment of detained persons and ensuring that all persons admitted to a police detention house are thoroughly screened by a health-care professional without delay.

Whilst welcoming the closure of some old, substandard police detention houses and the opening of new facilities, the CPT criticised conditions of detention in certain police establishments, in particular at Haapsalu Detention House. The Committee also recommended that a definitive end be put to the practice of accommodating remand and sentenced prisoners in police detention houses.

In relation to the **prisons** visited, the CPT's delegation received hardly any allegations of physical ill-treatment by prison staff of inmates; nevertheless, a few allegations were heard of unnecessary use of force when dealing with an incident. Further, some inmates at Tallinn and Viru Prisons complained that they had been victims of inter-prisoner violence. In this regard, the delegation gained the impression that efforts were being made by staff to prevent incidents of this kind. The visit revealed a number of issues of concern, such as poor material conditions of detention and overcrowding at Tallinn Prison, impoverished regime for remand prisoners, and the excessive use of solitary confinement for disciplinary purposes (including in relation to juveniles) and insufficient health-care staff resources at Viru Prison. In respect of the country's only maximum-security prison unit (so-called "Supermax") at Viru Prison, the CPT encouraged the Estonian authorities to further develop the programme of activities offered to the prisoners concerned, including work opportunities.

The report also examined the treatment and living conditions of patients at a **psychiatric clinic** and of residents at a **social care home** and included an assessment of the legal safeguards in the context of admission procedures. Further, it contains recommendations concerning the conditions of detention in the disciplinary cells of a **military barracks** in Tallinn.

A complete list of the CPT's recommendations, comments and requests for information is contained in Appendix I to the report.<sup>1</sup>



Estonia report  
2012.pdf



Estonia response  
2012.pdf

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<sup>1</sup> pp. 61-76.

## **Fight against racism and intolerance**

On 2 March 2010, the European Commission against Racism and Intolerance (ECRI) published its fourth report on Estonia.<sup>2</sup> ECRI's Chair, Nils Muiznieks acknowledged that there had been improvements, but also expressed concern about the large number of stateless persons, the limited contact between Russian speakers and Estonians, high unemployment among minority groups and discrimination against Roma.

As regards positive developments, the 2008 Equal Treatment Act provides a sound framework for combating racism and related forms of discrimination in number of areas, such as employment, education, housing and social protection. The Gender Equality and Equal Treatment Commissioner has been charged with monitoring compliance with this Act.

The Estonian Integration Strategy 2008-2013 contains a number of valuable goals to address issues of concern to Russian-speaking minorities and stateless persons. These include providing Estonian language lessons, combating inequalities between Russians and Estonians in the employment sector, reducing the number of stateless persons as well as preserving the culture and identity of ethnic minorities.

Measures have been taken regarding Holocaust education and remembrance and teachers have been provided with pedagogical tools in this respect.

At the same time, the number of stateless persons, while gradually decreasing, is still as high as 8% of the population. The naturalisation process is still hampered by too stringent language and other requirements. It is important that dialogue be maintained between the authorities and persons without citizenship on the measures to be taken.

Contacts between the Russian-speaking minorities and Estonians are still too limited and the multicultural component of education should be developed further in order to bridge the gap between these communities. The transition to an education system capable of producing fluent Estonian speakers needs to be accompanied by additional training of teachers in Russian speaking schools. It requires the continuous involvement of both teachers and the Russian-speaker parents' associations.

The unemployment rate among minority groups remains twice as high as for Estonians. There is still no adequate monitoring of the Language Inspectorate's powers to assess employees' language competence in the public and private employment sectors.

Roma are particularly vulnerable to discrimination, stereotypes and prejudice. In the field of education, Roma pupils are far more likely to drop out of school and they continue to be overrepresented in schools for mentally disabled children.

Judges and prosecutors are not sufficiently familiar with the criminal and civil provisions relating to racism and related forms of discrimination. There is no independent body to investigate allegations of ill-treatment by the police. Sufficient resources would also be needed for the Gender Equality and Equal Treatment Commission.

The report contains findings and recommendations regarding the following issues:

- Existence and implementation of legal provisions<sup>3</sup>
- Discrimination in various fields including education, employment and administration of justice<sup>4</sup>

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<sup>2</sup> A summary of the report can be found on pp. 7-10.

<sup>3</sup> paras. 1-70.

- Racist violence<sup>5</sup>
- Racism in public discourse<sup>6</sup>
- Vulnerable/target groups including stateless persons, Russian-speaking minorities and other ethnic minority groups, Roma, asylum seekers, refugees, immigrants, immigrants without legal status and non-citizens in the electoral process<sup>7</sup>
- Antisemitism<sup>8</sup>
- Conduct of law enforcement officials<sup>9</sup>
- Media<sup>10</sup>
- Monitoring racism and racial discrimination<sup>11</sup>

The following three recommendations were selected for priority implementation to be revisited two years later:

- Ensure the quality of education offered to Russian-speaking children, for example by providing more training for Russian-speaking school teachers;
- Reduce the number of persons without citizenship;
- Tackle the undue placement of Roma children in special schools and ensure their reintegration in mainstream schools.

Subsequently, on 4 December 2012, ECRI adopted conclusions on the implementation of these recommendations for which priority follow-up was requested.

ECRI's report on Estonia, including Government observations, and the conclusions on the implementation of the recommendations subject to interim follow-up, are attached below.



EST-CbC-IV-2010-00 3-ENG.pdf



EST-IFU-IV-2013-00 5-ENG.doc

## Protection of minorities

### *Framework Convention for the Protection of National Minorities*

On 13 June 2012, the Committee of Ministers adopted a resolution on the protection of national minorities in Estonia (attached below). The resolution contains conclusions and recommendations, highlighting positive developments<sup>12</sup> but also mentioning issues of concern<sup>13</sup>. Moreover, it mentions a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I<sup>14</sup> and II<sup>15</sup> of the Advisory Committee's opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention.

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<sup>4</sup> paras. 71-98.

<sup>5</sup> paras. 99-101.

<sup>6</sup> paras. 102-105.

<sup>7</sup> paras. 106-165.

<sup>8</sup> paras. 166-170.

<sup>9</sup> paras. 171-176.

<sup>10</sup> paras. 177-179.

<sup>11</sup> paras. 180-182.

<sup>12</sup> Part 1.a) of the resolution.

<sup>13</sup> Part 1.b) of the resolution.

<sup>14</sup> paras. 6 - 24 of the third Opinion of the Advisory Committee on the Framework Convention on Estonia.

<sup>15</sup> paras. 25 - 183 *ibid.*

#### Issues for immediate action<sup>16</sup>

- take a more balanced approach towards the legitimate aim of promoting the State language while ensuring the rights of persons belonging to national minorities to speak and use their languages in public, also in relations with local authorities; favour a policy of incentives over punitive methods with regards to the implementation of the Language Act as amended in February 2011;
- ensure that the ongoing transfer to Estonian as the main language of instruction in upper-secondary Russian language schools is implemented gradually and with due regard to the quality of education offered in Estonian as well as Russian language; expand the availability of relevant teacher training courses including as regards bilingual and multicultural education;
- take appropriate measures to expand consultative mechanisms for persons belonging to national minorities beyond the cultural sphere; ensure that minority representatives are effectively involved in and have a substantial impact on all relevant processes of decision making affecting them.

#### Other recommendations<sup>17</sup>

- provide adequate financial and human resources to the Office of the Gender Equality and Equal Treatment Commissioner and ensure that awareness of her responsibilities is raised among society at large and relevant public services throughout the country;
- ensure that minority representatives are effectively consulted on the Integration Strategy, and that initiatives that create common social spaces and networking opportunities between ethnic Estonians and non-Estonians are enhanced, focussing in particular on promoting openness towards diversity among the majority population;
- take all appropriate measures, while fully respecting freedom of expression, to curtail stereotyping of minorities in the media and further promote minority language broadcast and print media, particularly as regards locally produced news; reconsider the translation requirement of the media and develop, in consultation with minority representatives, more appropriate means to ensuring a diverse but shared media space for the entire Estonian society;
- conduct a constructive dialogue with minority representatives on language-related developments, including with regards to the approach and functioning of the Language Inspectorate;
- expand opportunities to introduce minority language place names, in line with the principles contained in Article 11 of the Framework Convention, and ensure that relevant minority communities are aware of their rights in this respect;
- ensure that more intercultural elements are introduced in the school curricula and expand opportunities for bilingual education to increase opportunities for contacts between the ethnic Estonian and non-Estonian communities;
- combat perceptions about ethnic Estonians being favoured on the labour market in order to ensure that persons belonging to national minorities feel motivated to enter and remain in the Estonian labour market; create targeted development initiatives in the particularly disadvantaged region of Ida-Virumaa.

The Committee of Ministers' resolution is largely based on the corresponding third Opinion of the Advisory Committee on the Framework Convention on Estonia<sup>18</sup>. The concluding remarks, contained in Section III<sup>19</sup>, serve as the basis for the Committee of Ministers' Resolution. The Opinion of the Advisory Committee is also attached below.



CM Resolution.doc PDF\_3rd\_OP\_Estonia  
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<sup>16</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

<sup>17</sup> *Idem*.

<sup>18</sup> A summary of the report can be found on pp. 1 - 2.

<sup>19</sup> paras. 184 - 199.

The Fourth Opinion of the Advisory Committee on Estonia is still confidential and will most likely be made public during the second semester of 2015.

### *European Charter for Regional or Minority Languages*

Estonia has not yet signed or ratified the European Charter for Regional or Minority Languages. Thus, the country is not yet covered by the monitoring carried out by the Committee of Independent Experts under the Charter.

### **Council of Europe Commissioner for Human Rights**

On 20 June 2013, the Commissioner for Human Rights, Nils Muižnieks released the report on his visit to Estonia from 25 to 27 March 2013.<sup>20</sup>

The Commissioner's report focuses on following major human rights issues:

- economic crisis and its effects on the enjoyment of human rights<sup>21</sup>
- independence and effectiveness of national human rights structures<sup>22</sup>
- human rights of children<sup>23</sup>

The Commissioner provides specific conclusions and recommendations at the end of each section.<sup>24</sup>

Upon releasing his report, Nils Muižnieks said that "there are still 1200 stateless children in Estonia, a situation which prevents them from taking part in society as full members. This situation must be remedied urgently".

Although parents can use a simple and accessible procedure to acquire Estonian nationality for their stateless children, the authorities also bear responsibility for preventing statelessness among children. "Instead of requiring parents to apply for citizenship on the behalf of children, Estonia should grant citizenship automatically at birth to children who would otherwise be stateless. The Citizenship Act should be reformed with a view to reflect the best interests of the child."

Welcoming the current reform of the Child Protection Act, Commissioner Muižnieks stressed that "sufficient staff and expertise for child protection should be made available in every municipality - particular emphasis should be placed on the development of psychiatric and psychological care for children."

Corporal punishment, sexual abuse, violence and bullying in schools continue to be serious problems for children in Estonia. "A systematic and firm response is necessary to address all violence and abuse against children. Corporal punishment should be prohibited in all settings through explicit legal provisions so as to send a clear signal that any kind of violence against children is unacceptable. Public education and awareness-raising campaigns are needed to foster positive parenting and education without violence and more information should be provided to children about their right to be protected from violence."

Although the Estonian economy is recovering and the incidence of absolute poverty is decreasing, the Commissioner remained concerned about the long-term effects of the economic crisis in terms of poverty and social exclusion. "I am particularly concerned about absolute poverty among children and unemployment of young people. Economic recovery should be

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<sup>20</sup> A summary of the report appears on pp. 2-3.

<sup>21</sup> paras. 4-39.

<sup>22</sup> paras. 53-69.

<sup>23</sup> paras. 76-104.

<sup>24</sup> paras. 40-52, 70-75, 105-112.

accompanied by reinforced protection floors for the general population and targeted positive measures for vulnerable groups of people. The social benefits system should be reviewed to ensure that those in need receive adequate support."

There is also a need to improve equality legislation and working opportunities for persons with disabilities. Disability and incapacity benefits should be adjusted to meet social protection needs and requirements for long-term sustainability.

Another problem was the increased socio-economic gap between ethnic minorities and the majority population which is perpetuated among young people. "The Estonian authorities should take effective measures to curb long-term unemployment and social exclusion of ethnic minorities in the country. The Integration and Social Cohesion Strategy 2020 can be instrumental for this purpose. The labour inclusion of minority youth should be among the priorities."

The Commissioner welcomed the recent measures to improve access to justice, in particular the reduction of court fees, the establishment of remedies for excessively lengthy proceedings and the reform of the system of legal aid. "A further step required is the adoption of the new State Liability Act to ensure compensation for those court cases which are delayed for years without a valid reason."

Finally, stressing the importance of independent national human rights structures, the Commissioner urged the Estonian authorities to strengthen the Gender Equality and Equal Treatment Commissioner's Office so that it can perform its wide-ranging functions effectively. He also recommended that the authorities consult the Chancellor of Justice and the Equal Treatment Commissioner when measures and laws affecting the enjoyment of human rights are considered, and involve them in monitoring the long-term effects of the economic crisis.

The Commissioner's report on his 2013 visit to Estonia appears hereafter.



CommHR.pdf

### **Action against trafficking in human beings**

On 5 February 2015 Estonia ratified the Council of Europe Convention on Action against Trafficking in Human Beings which entered into force on 1 June 2015. The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) has not yet carried out a visit to Estonia.

### **Preventing and combating violence against women and domestic violence**

Estonia has signed but not yet ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. For this reason, it is not yet concerned by the monitoring procedure under this Convention.

### **Execution of judgments and decisions of the European Court of Human Rights**

At 31 December 2014, there were 9 cases against Estonia pending before the Committee of Ministers for supervision of their execution. 7 of these cases were a "leading case", i.e. raising a new structural/general problem and requiring the adoption of general measures, the other cases being "repetitive cases" concerning issues already raised before the European Court of Human Rights.

As of 1 June 2015, there are no cases or groups of cases against Estonia under enhanced supervision.

The document attached presents the latest statistical data regarding Estonia.



Status execution  
judgments Estonia.dc

## **Social and economic rights**

Estonia ratified the Revised European Social Charter on 11/09/2000, accepting 79 of the Revised Charter's 98 paragraphs. On 27 June 2012, Estonia accepted 8 additional provisions of the Charter, thus accepting to be bound by 87 of the Revised Charter's 98 paragraphs.

Estonia has not yet ratified the Additional Protocol providing for a system of collective complaints.

### Cases of non-compliance

#### *Thematic Group 1 "Employment, training and equal opportunities"*

► Article 1§4 - Right to work - Vocational guidance, training and rehabilitation (and Article 9 – Right to vocational guidance)

In practice access to vocational guidance is restricted to registered unemployed persons and those threatened with unemployment.

(Conclusions 2012)

► Article 9

Career counselling services in the labour market are accessible only to unemployed persons and workers given notice of redundancy.

(Conclusions 2012)

► Article 15§3- Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community

There is no anti-discrimination legislation for persons with disabilities covering issues such as housing, transport, telecommunications and cultural and leisure activities.

(Conclusions 2012)

#### *Thematic Group 2 "Health, social security and social protection"*

► Article 12§1 – Right to social security - Existence of a social security system

- the minimum levels of unemployment allowance and unemployment insurance benefit are manifestly inadequate;

- the minimum level of national pension is manifestly inadequate.

(Conclusions 2013)

► Article 12§4 – Right to social security – Social security of persons moving between states

- equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;

- equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;

- the retention of accrued benefits is not guaranteed to nationals of all other States Parties;

- the right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.  
(Conclusions 2013)

▶ Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need  
The amount of social assistance granted to a single person without resources is inadequate.  
(Conclusions 2013)

### *Thematic Group 3 “Labour rights”*

▶ Article 2§1 - Right to just conditions of work - Reasonable working time  
The maximum allowed working hours for crew members on short sea shipping vessels is 72 hours per seven day period.  
(Conclusions 2014)

▶ Article 4§2 – Right to a fair remuneration – Increased remuneration for overtime work  
Time off granted in lieu of increased remuneration for overtime is not sufficient  
(Conclusions 2014)

▶ Article 4§3 – Right to a fair remuneration – Non-discrimination between women and men with respect to remuneration  
The unadjusted pay gap is manifestly too high  
(Conclusions 2014)

▶ Article 4§4 – Right to a fair remuneration - Reasonable notice of termination of employment  
- general notice periods are insufficient beyond three years of service;  
- the wages due up to the end of the temporary contract may be withdrawn in the event of early termination on other than on economic grounds.  
(Conclusions 2014)

▶ Article 4§5 – Right to a fair remuneration - Limits to wage deductions  
After maintenance payments for children and other authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants.  
(Conclusions 2014)

▶ Article 5 – Right to organise  
It has not been established that:  
- the right to form trade unions is guaranteed in practice;  
- the right to join a trade union is guaranteed in practice.  
(Conclusions 2014)

▶ Article 6§2 - Right to bargain collectively - Negotiation procedures  
The promotion of collective bargaining is not sufficient  
(Conclusions 2014)

▶ Article 22 – Right of workers to take part in the determination and improvement of working conditions and working environment  
It has not been established that appeals are available for workers or their representatives in case of violation of the right of workers to take part in the determination and improvement of working conditions and the working environment.  
(Conclusions 2010)



*Thematic Group 4 “Children, families, migrants”*

► Article 7§3 – Right of children and young persons to protection - prohibition of the employment of children subject to compulsory education

The daily and weekly working time for children subject to compulsory education is excessive  
(Conclusions 2011)

Article 7§9– Right of children and young persons to protection regular medical examination

Medical examinations are not frequent enough for young workers  
(Conclusions 2011)

► Article 17§1 – Right of children and young persons to social, legal and economic protection - Assistance, education and training

Corporal punishment is not explicitly prohibited in schools and in the home.  
(Conclusions 2011)

► Article 19§6 – Right of migrant workers and their families to protection and assistance - Family reunion and Article 19§10 – equal treatment for the self-employed

A two years residence requirement which is imposed on migrant workers who are not citizens of members States of the European Union, nor citizens of the European Economic Area is excessive.

(Conclusions 2011)

Please find attached below Conclusions 2010, 2011, 2012, 2013 and 2014 regarding Estonia as well as the country fact sheet.



Estonia2010\_en.pdf Estonia2011\_en.pdf Estonia2012\_en.pdf Estonia2013\_en.pdf Estonia2014\_en.pdf



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