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Extract from the IHF report

Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)

Estonia¹

IHF FOCUS: conditions in prisons; rights of the child; national and ethnic minorities; citizenship; discrimination; migrants, asylum seekers and refugees.

In 2004, Estonia became a member of the European Union, a move that positively reflected on the country's progress in the field of human and minority rights. Nevertheless, many problems still remained in various sectors of life, which need to be solved promptly.

Estonia has a relatively high number (32%) of members of ethnic and national minorities, most of them Russians. The fact that about 20% of the total population does not have Estonian citizenship has a significant affect to a large number of people. Most of them are non-Estonians who settled in the country during the Soviet rule in 1945-1991 and who were not automatically recognized as citizens after Estonia regained independence in 1991.

Estonian prisons were overcrowded, which led to a series of problems. Non-Estonians made up a disproportionate share of the prison population.

Estonia was virtually a closed country for asylum seekers. As of 2004, only four people had been granted political asylum. In 2004, fourteen people applied for asylum, but none of them received it.

Conditions in Prisons

According to the Estonian authorities, conditions in prisons in 2004 were “not praiseworthy.” The Ministry of Justice cited poor conditions of confinement, which could be attributed to overcrowding. As a result, it was extremely difficult to implement programs designed for effective supervision and eventual reintegration of prisoners into society.² The official priorities in the field for 2003-2006 were: establishing a system of regional prisons and increasing the capacity of prisons to meet modern requirements; increasing the administrative capacity of the prison system; and creating a cooperation network with partners of the prison system.³

¹ Based on a report from the Legal Information Centre for Human Rights (LICHR, Tallinn) to the IHF, with contributions from the IHF Secretariat and the Ida-Virumaa Integration Centre.

² Information from the Ministry of Justice at http://www.just.ee/new_index.php3?cath=2002&id=39.

³ Ministry of Justice, *Estonian Prison System Yearbook*, 2004, p. 44.

According to the Ministry of Justice, as of 1 January 2005, 58% of the convicted prisoners were non-Estonians and 44% non-citizens,⁴ with most foreign citizens being citizens of the Russian Federation.⁵

In 2004, inmates complained to the Legal Information Centre for Human Rights about the following problems: arbitrary behaviour of the prison administration, lack of legal assistance, difficulties with access to medical aid, and unfair payment for work.⁶

Rights of the Child

In 2002, the UN Committee on Economic, Social and Cultural Rights expressed concern about the extent of the problem of street children in Estonia and that the law allows children aged between 13 and 15 to work with the written consent of one parent or a guardian and the labour inspector. The list of activities which children are permitted to do also includes industrial work.⁷ In 2004 the government adopted a new list of work places where minor children can be employed.⁸ The new government regulations are more detailed and ban work that is likely to be dangerous to the health and moral development of young people.

According to official statistics from 2003,⁹ about 27% of Estonian children lived below the poverty line.¹⁰ Children also faced the serious problem of expanding drug addiction, as well as the spread of HIV. In 2004, 743 HIV infections were registered, including 141 of 15-19 year olds.¹¹

National and Ethnic Minorities

Citizenship

As of April 2004, of all people legally residing in Estonia, 1,090,000 had Estonian citizenship, 101,000 were citizens of other countries and 160,000 were stateless.¹² Non-citizens of Estonia were mostly people who had arrived in Estonia after World War II and their descendants.¹³ As of December 2004, stateless former Soviet citizens made up slightly less than 11% of the total population.¹⁴

In recent years, about 3,000-4,000 persons received Estonian citizenship annually.¹⁵ In 2004, the rate of naturalization increased as compared with 2003 and exceeded 6,500,¹⁶ presumably,

⁴ Ministry of Justice, Estonian Prison System Yearbook 2002-2003, p. 6-7

⁵ *Baltic News Service*, 22 January 2004.

⁶ Database of the Legal Information Centre for Human Rights, Tallinn.

⁷ UN, *Concluding Observations of the Committee on Economic, Social, and Cultural Rights: Estonia*. 19/12/2002.E/C12/1/Add.85, pars. 20-21; see also

[http://193.194.138.190/tbs/doc.nsf/\(Symbol\)/1c966a1d785dd1afc1256c920058729a?Opendocument](http://193.194.138.190/tbs/doc.nsf/(Symbol)/1c966a1d785dd1afc1256c920058729a?Opendocument).

⁸ RT I 2004, 40, 273.

⁹ The most recent statistics available as of this writing.

¹⁰ Ministry of Social Affairs, *Social Sector in Figures 2004*, 2004, p. 18.

¹¹ Health Protection Inspectorate, <http://www.tervisekaitse.ee/tkuus.php?msgid=3417>.

¹² Data by the Citizenship and Migration Board as of 30 April 2004, *Riikliku programmi "Integratsioon Eesti ühiskonnas 2000–2007" rakendamise 2003. aastal: Aruanne*, p. 71, <http://www.rahvastikuminister.ee/cms/doc/integratsioon.pdf>.

¹³ LICHR, Vadim Poleshchuk, *Non-Citizens in Estonia*, *Legal Information Center for Human Rights: Report 2004*, pp. 6-7, <http://www.lichr.ee/eng/researchers.analysis/non-citizens.pdf>.

¹⁴ Information from the Minister of Population Affairs, *Delfi*, 28 December 2004.

¹⁵ Citizenship and Migration Board, *Yearbook 2003*, p.14, <http://www.mig.ee/downloads/37/MIG-aastaraamat%202003%20final%20screenL.pdf>.

due to the factor of EU accession and simplification of bureaucratic procedures. In 2003, some 1,300 stateless persons who were former Soviet citizens decided to receive Russian citizenship to solve the long-term problem of statelessness.¹⁷

The naturalization requirements are stipulated by the Law on Citizenship (1995). Article 6 of the law provides for two naturalization exams: tests of written and oral Estonian language and an exam on the knowledge of the Estonian Constitution and the Law on Citizenship. The Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities in its opinion on Estonia of 14 September 2001 urged Estonia to make naturalization more accessible, noting that “lack of citizenship often has a detrimental impact on the enjoyment of full and effective equality.”¹⁸

Since 1 January 2004, the amendments to the Law on Citizenship¹⁹ have provided for state reimbursement of the fee paid for Estonian language training by an alien who studied the language at the accredited courses and managed to pass the naturalization exams. Another amendment²⁰ shortened by six months the average period necessary for naturalization in Estonia. From April 2005 on, more people will be entitled to a simplified naturalization procedure due to their disabilities.²¹

A recent sociological study revealed that the majority of both stateless people and Russian citizens regard language requirements to be a major obstacle to their naturalization.²² Additionally, some categories of aliens (e.g. former military and security servicemen) cannot naturalize due to special provisions of the Law on Citizenship (article 21).

Cultural Autonomy

The 2000 national census registered a relatively high figure of 32% of members of ethnic and national minorities in Estonia. Ethnic Russians constituted 26% and Russian native speakers 30% of the total population. Other larger ethnic groups were Ukrainians (2.1%), Belarussians (1.3%) and Finns (0.9%).²³

Only the Law on Cultural Autonomy of National Minorities (1993) specifically addresses the issue of minority rights. Article 1 of that law stipulates an official definition of a national minority, which includes the Estonian citizenship criteria; i.e., minority rights are officially guaranteed only to minority members who are Estonian citizens. Therefore, the majority of non-Estonia’s non-citizens are officially excluded from the definition and do not formally benefit of those rights.

However, article 6 of the 1993 law entitles non-citizens the right to participate in the activities of “cultural autonomies.” Further, article 2(1) of the law prescribes that “cultural autonomies” may be founded by Germans, Russians, Swedes, and Jews or by a group of three thousand Estonian citizens of another minority origin. In 2004, Ingrian Finns – an ethnic group

¹⁶ *Delfi*, 28 December 2004.

¹⁷ Russian Embassy in Estonia, written communication no. 14363, 4 October 2004.

¹⁸ Opinion on Estonia of 14 September 2001, ACFC/INF/OP/I(2002)005, par. 26, http://www.coe.int/T/e/human_rights/Minorities/2_FRAMEWORK_CONVENTION_MONITORING/2_Monitoring_mechanism/4_Opinions_of_the_Advisory_Committee/1_Country_specific_opinions/1_First_cycle/1st_OP_Estonia.asp#TopOfPage.

¹⁹ RT I 2003, 82, 550.

²⁰ RT 2004, 12, 80.

²¹ RT I 2004, 84, 570.

²² Klara Hallik (ed.), *Integration of Estonian Society: Monitoring 2002*, Tallinn: Institute of International and Social Studies, 2002, p. 62.

²³ Statistical Office of Estonia, *2000 Population and Housing Census, Citizenship, Nationality, Mother Tongue and Command of Foreign Languages, II*, 2001, Table 18.

linguistically and ethnically close to Estonians – became the first national minority group to obtain “cultural autonomy.”²⁴ The creation of the group is supposed to give new incentives to promote of ethnic identity and to ensure better cooperation of Ingrian Finns with the authorities.

Official Linguistic Requirements

According to the 2000 national census, 20% of the Estonian population (mostly Russian-speakers) did not speak Estonian, the official language.²⁵ In 2004, many of their concerns were related to the lack of obligation on the authorities to use the Russian language in public warning signs and in consumer information, including information notes enclosed with medicines and dangerous goods.

The higher than average unemployment rate among ethnic non-Estonians can largely be attributed to various economic reasons (see below), however, language regulations were additional obstacles to their full employment. While the requirements of Estonian language proficiency may be justified in some spheres of economic activities, regulations valid in 2004 hardly took into account individual abilities of older non-Estonian speakers and almost totally ignored a regional approach to the problem. For all positions in the public domain and for many positions in the private domain the law required a certificate of Estonian language proficiency unless a person had graduated from an Estonian-language education institution.²⁶

The implementation of official language requirements was regularly controlled by a special institution – the Language Inspectorate. In 2004, the inspectorate dealt with 2,371 administrative acts, 84% of which were related to violations of language-related legal norms.²⁷ For instance, the Estonian language proficiency level of 513 teachers of Russian-language schools was checked in 2004. The inspectorate found that 476 of them failed to meet the officially established requirements.²⁸

The Russian minority was also concerned about the proposed minority school reform. From 2007 on, 60% of the instruction in all previously Russian-language upper secondary schools is planned to be carried out in Estonian. However, individual schools are entitled to apply for prolongation of a transition period. The decision on prolongation will be met both by local and national authorities.²⁹ In the 2003/2004 academic year there were 10,144 pupils in Russian-language upper secondary classes, which made up 28.5% of the total number of pupils at this level.³⁰

In general, minorities seemed to be underrepresented among students of institutions of higher education,³¹ which can be attributed partly to the fact that many young Russian-speakers are still not fluent in Estonian.³² In the academic year 2004–2004, only 10% of students in

²⁴ *Estonia's Second Report on Implementation of the Framework Convention for the Protection of National Minorities*, June 2002, pp. 22-23, http://web-static.vm.ee/static/failid/089/ESTONIAS_SECOND_REPORTANNEXES.pdf.

²⁵ Statistical Office of Estonia, *2000 Population and Housing Census, Citizenship, Nationality, Mother Tongue and Command of Foreign Languages, II*, 2001, Table 15.

²⁶ See details in LICHR, Vadim Poleshchuk, *Non-Citizens in Estonia: Report 2004*, 2004, pp. 38-39, <http://www.lichr.ee/eng/researchers.analysis/non-citizens.pdf>.

²⁷ Data provided on the official website of the Language Inspectorate, <http://www.keeleinsp.ee>.

²⁸ *Eesti Päevaleht*, 5 February 2005.

²⁹ Law on Basic School and Upper Secondary School, articles 9 (1¹) and 52.

³⁰ Statistical Office of Estonia, *Education 2003/2004*, 2004, Tables 2.7-2.9.

³¹ See data for the 2000 national census in LICHR, Vadim Poleshchuk, *Non-Citizens in Estonia: Report 2004*, 2004, pp. 43-44, <http://www.lichr.ee/eng/researchers.analysis/non-citizens.pdf>.

³² According to the Eurobarometer study of November–December 2003, only 44% of non-Estonians aged 15-19 could speak Estonian. See *Riikliku programmi “Integratsioon Eesti ühiskonnas 2000–*

institutions of higher education studied in Russian (compared to the academic year 1993/1994 – 17%).³³ However, with the new academic year of 2004-2005, a Russian Centre of Academic Education was opened at the University of Tallinn, with the main task of increasing the number of students who have graduated from Russian-language schools to at least 25% of the total number of all students. Similar plans were under discussion at Tartu University and Tallinn Technical University.³⁴

Social-Economic Situation

In the second quarter of 2004 the unemployment rate in Estonia was 7.0% among ethnic Estonians and 15.1% among ethnic non-Estonians.³⁵ The unemployment rate of non-Estonians with tertiary education was relatively high as well (10.4% in 2003).³⁶ In 2003, ethnic non-Estonians made up the majority of persons who had been unemployed for 24 months and longer.³⁷

While unemployment affected both ethnic Estonians and minorities, it was proportionally higher among the minority population. Ethnic non-Estonians' employment opportunities on the labor market were restricted due to dramatic changes in various fields of Estonian economy, including major changes that have led to the decline of sectors of industry (such as mining, chemical industry, and others) which used to employ the majority of non-Estonians.³⁸

HIV was widespread among ethnic minorities: 56% of all infections registered in 2004 were from Ida-Viru County, where minority members make up the overwhelming majority.³⁹

While a considerable section of the minority population was not citizens of Estonia, in most cases they enjoyed the same free access to social benefits as Estonian citizens.⁴⁰

Discrimination

In 2003-2004, Estonia made several attempts to create a comprehensive system to fight discrimination on ethnic and other grounds. On 1 May 2004, relevant amendments to the Law on Employment Contracts entered into force.⁴¹ The law now prohibits “unequal treatment” on numerous grounds, including “race”, ethnic origin, language proficiency and religious or other belief. The anti-discrimination provisions of the law are applicable to: entry into employment contract; payment of wages; promotion; giving of work tasks; termination of employment contract; opportunities of training, retraining and advanced training; and to other instances of employment relations. A person who applies for a job is also protected by the law. The law now includes a detailed definition of direct and indirect “unequal treatment,” harassment and special provisions regarding burden of proof in discrimination cases. The

2007” *rakendamine 2003. aastal: Aruanne*, p. 49,

<http://www.rahvastikuminister.ee/cms/doc/integratsioon.pdf>.

³³ Ministry of Foreign Affairs, *Estonia Today: Russian-language Education*, 2004, p. 2, http://web-static.vm.ee/static/failid/016/Russian_language_education.pdf.

³⁴ Information from the Ida-Virumaa Integration Centre to the IHF, 31 March 2005.

³⁵ Data for persons aged 15-74 provided by the Statistical Office of Estonia in the public database at <http://www.stat.ee>.

³⁶ Statistical Office of Estonia, *Labour Force 2003, 2004*, tables 111 and 112.

³⁷ *Ibid*, table 93.

³⁸ Information from the Ida-Virumaa Integration Centre to the IHF, 31 March 2005.

³⁹ Health Protection Inspectorate, <http://www.tervisekaitse.ee/tkuus.php?msgid=3417>.

⁴⁰ LICHR, Vadim Poleshchuk, *Non-Citizens in Estonia: Report 2004*, 2004, p. 41,

<http://www.lichr.ee/eng/researchers.analysis/non-citizens.pdf>.

⁴¹ RT I 2004, 37, 256.

fight against gender discrimination is regulated by a special Law on Gender Equality (also adopted in 2004).⁴²

On 1 January 2004, the legal chancellor became the main pre-trial institution to deal with discrimination-related cases, according to relevant amendments to the Law on Legal Chancellor adopted on 11 February 2003.⁴³ Article 19 of the law provides that everyone receives the additional right of recourse to the legal chancellor for the conduct of a conciliation procedure if he/she finds that a natural person or a legal person in private law has discriminated against him/her on the basis of sex, “race,” ethnic origin, color, language, origin, religion or religious beliefs, political or other opinion, property or social status, age, disability, sexual orientation, or other attributes specified by law. The cases regarding alleged discrimination by public authorities may be solved by the legal chancellor in the capacity of ombudsman. Within certain time limits the cases of discrimination may also be solved by courts and other pre-trial institutions (such as labor disputes resolution committees).

However, information about these new opportunities was not widespread. As a result, only three complaints regarding discrimination in non-official domains were filed with the Legal Chancellor’s Office in the first part of 2004.⁴⁴

Migrants, Asylum Seekers and Refugees

The legal status of asylum seekers and refugees and their stay in Estonia is regulated by the Law on Refugees, which was adopted in February 1997. Estonia accessed the Geneva Convention relating to the Status of Refugees and its Protocol of 31 January 1967. The amendments to the Law on Refugees, which entered into force in May 2003, harmonized Estonian asylum procedures with the relevant EU legislation.⁴⁵ However, only four persons had been granted the status of political asylum as of 2004. An additional nine persons received subsidiary protection status (i.e., they were not granted asylum status but a residence permit for humanitarian reasons).⁴⁶ In 2004, fourteen persons submitted applications for asylum status but none of them received it.⁴⁷

Experts believed that among the main reasons for such a negligible number of refugees in Estonia were rigid migration regulations and “unfriendly practices” of border guards and migration officials, insignificant social allowances and the geographical position of the country – far away from the main “transit routes” of refugees.⁴⁸

Illegal Aliens

The Citizenship and Migration Board (CMB) anticipated that legal, as well as illegal migration would increase after Estonia joined the EU in 2004. In 2003 the CMB was vested with the authority to detain aliens who stay in Estonia illegally, and to organize their deportation from Estonia. For that purpose a structural unit, which is staffed 24 hours a day –

⁴² RT I 2004, 27, 181.

⁴³ RT I 2003, 23, 142.

⁴⁴ Legal Chancellor, written communication no. 9-3/1081 of 22 July 2004.

⁴⁵ Citizenship and Migration Board, *Yearbook 2003*, pp. 17-18, <http://www.mig.ee/downloads/37/MIG-aastaraamat%202003%20final%20screenL.pdf>.

⁴⁶ Citizenship and Migration Board, written communication no. 15.6-06/28857-1 of 6 August 2004.

⁴⁷ Information of the Citizenship and Migration Board, Baltic News Service, 15 January 2004.

⁴⁸ Interview with Andrei Arjupin, migration lawyer, Tallinn, 15 February 2005.

the Deportation Centre – was founded. Persons who stay in Estonia illegally and who cannot be expelled from Estonia within 48 hours are detained in the Deportation Centre.⁴⁹

In 2004, many concerns were raised regarding the living conditions in the Deportation Centre. Persons detained there complained about the quality of food and difficulties with access to medical aid.⁵⁰

The departure procedure lasted on average four to six months in 2004. On the basis of the Law on Obligation to Leave and Ban on Entry, it is now possible to deport a person without a decision of a judge, e.g. an alien who entered Estonia with a visa and the visa expired as well as a prisoner without a valid residence permit (article 14).

According to official estimates, there were at least 5,000-10,000 illegal aliens in Estonia as of the end of April 2004.⁵¹ These included two main groups: persons residing in Estonia before 1991 and “newcomers.”

⁴⁹ Citizenship and Migration Board, *Yearbook 2003*, pp. 21-22, <http://www.mig.ee/downloads/37/MIG-aastaraamat%202003%20final%20screenL.pdf>.

⁵⁰ Complaints filed with the Legal Information Centre for Human Rights (Tallinn). See also *Vesti Nedeli*, 19 November 2004 and *Vesti Dnja*, 22 November 2004.

⁵¹ As of 30 April 2004. *Riikliku programmi “Integratsioon Eesti ühiskonnas 2000–2007” rakendamine 2003. aastal: Aruanne*, p. 71, <http://www.rahvastikuminister.ee/cms/doc/integratsioon.pdf>.