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Human Rights Watch UPR Submission to OHCHR: Estonia

UPR Submission on Estonia

June 2015

Summary

This submission highlights concerns about Estonia's compliance with its international human rights obligations. It focuses on the persistent problem of statelessness, restrictions on the use of Russian language in education for the Russian-speaking minority, LGBT rights and the rights of refugees and asylum seekers.

The Estonian government has taken a number of steps to implement some of the reforms to which it committed during the Human Rights Council's review of Estonia under the Universal Periodic Review procedure in 2011. These include, for example, ratifying the Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol (OP) on May 30, 2012. Estonia also ratified the

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OP-CRC-AC), which entered into force on March 12, 2014.

The government has yet to implement other reforms to which it committed under the UPR in 2011.

The issue of statelessness

Despite its relatively small population, Estonia ranks tenth in terms of stateless populations worldwide. Estonia is still not a party to key international agreements dealing specifically with statelessness, including the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the European Convention on Nationality.

According to the Estonian Ministry of Interior, as of June 1, 2015, 84,068 stateless persons live in Estonia. After the collapse of the Soviet Union, as Estonia's government sought to restore Estonian statehood, it adopted citizenship policies that required most non-Estonians who were born in Estonia or moved there after 1940 to go through a rigorous naturalization process. This led to unprecedented levels of statelessness (an analogous process took place in Latvia as well). In a 1993 report, HRW [called](http://www.hrw.org/legacy/reports/pdfs/e/estonia/estonia930.pdf) (<http://www.hrw.org/legacy/reports/pdfs/e/estonia/estonia930.pdf>) Estonia's citizenship regime "discriminatory," particularly against the country's Russian-speaking minority, and in violation of "several international conventions," including the International Convention on the Elimination of All Forms of Racial Discrimination (CERD-1965).

In recent years the Estonian government took significant steps to reduce child statelessness. On January 21, 2015 it amended the Citizenship Law to simplify naturalization requirements for several categories of people, including children. The new amendments will enter into force on January 1, 2016. They will allow children born to stateless parents to obtain Estonian citizenship at birth automatically, without a parent having to apply, as was required before. Parents can reject the citizenship on behalf of their children within a year.

The amendments also allow children born in Estonia to hold citizenship of other countries until age 18; after that they will have three years to decide which country's citizenship they want to retain. Stateless children under 15 residing in Estonia on January 1, 2016, and whose parents have lived in the country for at least five years, will also receive Estonian citizenship after the amendments enter into force. Parents will have a year to reject Estonian citizenship on behalf of their child if they wish.

The amendments also simplified the citizenship requirements for people who are 65 years old or over by exempting them from the written portion of the Estonian language exam that is obligatory for naturalization. This entered into force in February 2015.

However, the amendments do not affect children between 16 and 18 or children born outside the country to stateless residents of Estonia.

According to Estonian government statistics, 6.3 percent of Estonia's population is stateless. While the country has made significant progress in reducing the number of stateless people since the period immediately following the USSR's collapse, when the share of stateless people reached a staggering 1/3 of the country's population, more reform and political will are needed to end statelessness in Estonia. Human Rights Watch visited Estonia in June 2015 and documented a number of problematic trends that illustrate the country's ongoing violations of the rights to nationality and nondiscrimination.

The 1993 HRW report cited language requirements in Estonia as "possibly the greatest impediments" to obtaining citizenship for Russian-speaking residents. Language requirements remain the most significant naturalization challenge for the country's elderly Russian-speaking population, who were typically educated in Russian and can often manage their day-to-day lives without using Estonian. In the northeastern region of Ida-Viru, which is the country's densest Russian-speaking region, Russian is spoken by over 80 percent of population. The

Estonian language has little practical application for these residents outside the naturalization process, which calls into question the fairness and necessity of the language requirements for long-term residents.

Human Rights Watch met several people in Tallinn and other Estonian towns who cited the difficulty of passing the Estonian language test as the main reason they keep their “gray passports,” an identification document for non-citizens in Estonia, and do not pursue naturalization. One ethnic Russian, who commutes for work to another EU country, told Human Rights Watch that he decided not to seek Estonian citizenship after watching his wife study and take the Estonian language test to apply for a professional license. He said it was “intense” and “stressful” for her. He also said that to study for the Estonian language test he would have to quit his job to take language classes. He said he chose to keep his job and income to provide for his three children.

The relative costs of naturalization and the income requirements for citizenship continue to disenfranchise poorer long-term residents and have contributed to statelessness among the Russian-speaking population. Language classes to prepare adequately for the test are not free and therefore pose a considerable financial obstacle for non-citizens with modest or no income. Notably, unemployment is high among ethnic Russians, especially in the country’s northeast. While language fees can be reimbursed by the state, they still require up-front costs and are reimbursed only upon passing the language test.

Other naturalization requirements that also impose economic hardship for economically disenfranchised Russian minority groups include the income requirements and the cost of the application itself. While the €13 application fee in Estonia might seem low, in relative terms it represents 2 percent of a worker’s monthly wages (€650 in 2011) in Ida-Viru; these fees add up with repeat applications, as applicants struggle to pass the language test. Naturalization costs can be waived for qualifying residents, but it is unclear how many are even aware of this option and take advantage of it.

Several interviewees told Human Rights Watch they did not seek to naturalize because they felt alienated from political life and by the government’s

interference with their right to nationality.

Recommendations:

- Sign and ratify the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the European Convention on Nationality;
- Amend the present Citizenship Law, taking into consideration the long-term residency in Estonia of the vast majority of non-citizens, reducing the language requirement to a minimum for all who had lived in Estonia for an extended period of time before the collapse of the USSR, and completely abolishing a language requirement for citizenship for all non-citizens born before 1940;
- Further improve the Citizenship Law by including amendments which would positively address the situation of children between 16 and 18 and children born outside the country to stateless residents of Estonia;
- Commit resources to provide free Estonian language classes for all stateless residents permanently living in Estonia wishing to obtain Estonian citizenship;
- Work actively to reduce the number of stateless residents in the country.

Human Rights of the Stateless

The Estonian government countered criticism of statelessness by referring to the fact that the Russian-speaking minority enjoys significantly more rights than stateless residents do in other countries. While the stateless in Estonia do not enjoy the same rights as citizens, Estonia, to its credit, provides more protections than those foreseen in the 1954 Convention on the Status of Stateless Persons. Stateless residents enjoy permanent residence, can travel abroad and back with their stateless person identification document, are entitled to governmental social welfare benefits, and have the right to Estonian consular representation abroad.

Still, stateless residents do not enjoy full political rights in the country. While Estonian law permits non-citizen residents to vote in local elections, they may not participate in parliamentary elections. Although Estonia is under no obligation to allow the stateless to vote in national elections, many interviewees told HRW that exclusion from national political dialogue left them feeling alienated and discouraged them from pursuing naturalization.

Stateless residents may not occupy a number of professions, among them posts in the national and local civil service, police, customs, and others, and they may not become prosecutors, judges, notaries, and the like.

Language Issues and the Russian-speaking minority

Language is a primary human rights concern for the Russian-speaking minority, particularly with regard to access to employment, education, and the courts. Some Estonian language policies and practices are discriminatory.

Employment

Many interviewees from the Russian-speaking community told Human Rights Watch that the most important human rights concern besides statelessness is language rights. Language is a concern not only for stateless residents wishing to naturalize, but also for those who wish to obtain a good education and work in the public and private sector. Members of the Russian-speaking community have long alleged discrimination in hiring in Estonia. Estonian language requirements for jobs in the public and private sectors, even in heavily Russian-speaking regions, are often cited as reasons for denied employment. In many cases Russian-speakers are a priori barred from jobs because they have not passed an Estonian language test certifying they speak at the C1 (advanced) level. In other, fewer cases, inadequate mastery of Estonian is cited. Several interviewees, including Estonia's Gender Equality and Equal Treatment Commissioner, told Human Rights Watch that it is very hard to prove employment discrimination in court. Several human rights activists acknowledged that in some cases employers use language as pretext not to hire Russian speakers.

Estonia's Language Inspectorate, which enforces the country's language law, ensures that all public employees (and employees of private enterprises that interface with the public, such as pharmacists) can speak a certain level of Estonian or risk fines or dismissal. The European Commission against Racism and Intolerance has expressed concern that there is little oversight over the Inspectorate and that it does not seem to take into account regional specificities when enforcing the language law, such as in Ida-Viru region. In 2013 the Inspectorate carried out 2,540 inspections throughout the country, 2,261 of which found violations of the use of the official language. 1,694 teachers in Russian schools and kindergartens were inspected and 1,506, or 89 percent, were found to have insufficient knowledge of the Estonian language. 342 doctors and nurses of the central hospital of Ida-Viru, which works primarily with Russian speakers, were inspected, and 143 were found in violation. The violators were fined. Actions by the Language Inspectorate can be challenged in court, although this presents additional financial and time burdens.

In January 2015, Estonia's Language Inspectorate initiated inspections of election posters for the Centrists' Party in Tallinn, which is widely supported by the Russian-speaking community. The language Inspectorate suggested that the party's posters, in both Russian and Estonian, were in violation of the language law, which specifies that Estonian cannot be "less visible" than other "foreign languages" in pre-election advertising. While the Russian text comes before Estonian in the poster, the font is the same size in both languages, and the incident appears to amount to little more than politically-motivated harassment.

Recommendations:

- Condemn discrimination based on ethnic origin and language in employment and take active measures to prosecute such cases;
- End discriminatory practice of bans to certain professions for stateless residents;
- End punitive functions of the Language Inspectorate and introduce constructive processes to promote the development and spread of the

Estonian language in the country, such as facilitating language learning.

Education

In Estonian publicly-funded secondary schools, no more than 40 per cent of all course work can be taught in Russian. In regions where Russian is spoken by a majority of the population, and where high-quality non-Russian teachers are few, the fairness of this policy seems questionable. Article 1 of the UNESCO Convention against Discrimination in Education states that discrimination in education includes: “the exclusion, limitation or preference... based on language [among other factors] ... which has the purpose or effect of nullifying or impairing equality of treatment in education.” Estonia is not yet a signatory to this convention.

Human Rights Watch spoke to three ethnic Russian pupils and several ethnic Russians whose children study in Estonian schools. All complained that pupils did not receive an adequate education because their level of Estonian language mastery did not allow them to understand certain subjects, for example, World History, in Estonian.

Recommendation:

- Review language policy in secondary schools and gymnasiums and ensure that non-Estonian pupils are fully ready for education in Estonian language before taking steps to transition such pupils and their schools to instruction in Estonian language.

LGBT rights

On October 9, 2014, the Estonian parliament passed a Co-habitation Act, which extends rights of married couples to unmarried persons, including same-sex couples. Under the new law, which will enter into force on January 1, 2016, unmarried, including same-sex couples will be able to register their cohabitation and have access to state benefits. Registered couples will be able to adopt their

partner's biological children. However, according to Estonia's lesbian, gay, bisexual and transgender (LGBT) groups, the lack of action by the government to prepare the law for implementation in 2016 undermines its progressive potential.

Several human rights groups in Estonia expressed concern to Human Rights Watch that Estonian law did not explicitly include hatred on the basis of sexual orientation and gender identity as a motivation in the definition of a hate crime. Estonian LGBT groups told Human Rights Watch they were unaware of any cases of hate crimes committed against LGBT people that reached the courts. Another concern is the lack of statistics on hate crimes related to sexual orientation and gender identity, which makes it difficult to understand the rates of anti-LGBT violence as well as its changing dynamics and possible spread.

Recommendations:

- Ensure that all the preparatory work is done for the implementation of the Co-Habitation Act by the time it enters into force in January 2016;
- Develop and adopt legislation that would explicitly recognize hatred on the basis of sexual orientation and gender identity as a motive and make it an aggravated circumstance in a crime;
- Instruct relevant law enforcement agencies, such as the Interior Ministry, to gather data about homophobic and transphobic crimes, and make the gathering of such data compulsory.

Refugees and Asylum Seekers:

According to the United Nations High Commissioner for Refugees, as of December 2014, 90 refugees and 95 asylum seekers resided in Estonia. Estonia maintains a minimalist refugee policy and grants asylum only to a few dozen asylum seekers per year. At least 20 people had been granted asylum as of November 2014. Pursuant to the European Commission's proposed voluntary

agreement among the EU states to resettle refugees who have entered via the Mediterranean, the Estonian government has committed to accepting up to 200 refugees in the next two years.

However, according to several Estonian human rights groups, detention facilities and holding centers for asylum seekers are overcrowded, some holding twice their capacity. In addition, asylum seekers encounter serious obstacles in receiving translation support in their language during refugee status determination interviews.

Recommendations:

- Urgently make improvements and upgrade detention facilities and holding centers for asylum seekers to avoid further overcrowding and guarantee refugees and asylum seekers adequate living conditions after they enter Estonia;
- Ensure that all asylum seekers receive translation services in their native languages at their request for their refugee status determination interviews.

Region / Country [Europe/Central Asia, Estonia](#)

Topic [Education, Free Speech, LGBT Rights, Migration, Refugees, Asylum Seekers](#)

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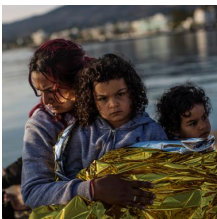
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