

ECRI

European Commission against Racism and Intolerance
Commission européenne contre le racisme et l'intolérance

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European Commission against Racism and Intolerance

ECRI's country-by-country approach:

REPORT ON ESTONIA

Strasbourg, 26 January 1999



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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INTRODUCTION

The European Commission against Racism and Intolerance (ECRI) was set up in 1994, at the instigation of the first Summit meeting of Heads of State and Government of the member States of Council of Europe, to combat the growing problems of racism, xenophobia, anti-Semitism and intolerance threatening human rights and democratic values in Europe. The members of ECRI were chosen for their recognised expertise in questions relating to racism and intolerance.

The task given to ECRI was to: review member States' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance and their effectiveness; propose further action at local, national and European level; formulate general policy recommendations to member States; and to study international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

One aspect of the activities developed by ECRI to fulfil its terms of reference is its country-by-country approach, which involves carrying out an analysis of the situation in each of the member States in order to provide governments with helpful and concrete proposals.

The procedure adopted for the preparation of country-specific reports can be summarised thus:

- a. The preliminary collection of information as well as the preparation of the texts of the preliminary draft reports are carried out in small working groups of ECRI. Preliminary sources of information used are wide-ranging, including, *inter alia*, replies provided by governments to a questionnaire sent out by ECRI, input from the relevant national members of ECRI, information on national legislation collected for ECRI by the Swiss Institute of Comparative Law¹, information from international and national non-governmental organisations, various publications and the media.
- b. ECRI examines and discusses the preliminary draft report on each country in plenary session and adopts a draft report.
- c. The report is sent to the relevant government for a process of confidential dialogue conducted through a government-appointed national liaison officer. The draft country report is re-examined and possibly revised in the light of the comments provided by the latter.

¹ *The report prepared by the Swiss Institute (ref: CRI (98) 80), covering relevant legislation in member States of the Council of Europe is available on the web site www.ecri.coe.int and, in hard copy, from ECRI's Secretariat.*

- d. The report is then adopted in its final form by ECRI in plenary session, and transmitted through the Committee of Ministers of the Council of Europe, to the government of the country in question. Two months after this transmission, the report is made public, unless the government of the country concerned expressly requests that it is not made public.

To date, three series of ECRI's country-specific reports have been made public, in September 1997 and in March and June 1998 respectively.² A fourth series of country-specific reports was transmitted to the governments of the countries concerned in November 1998, and is thus now being made public³.

The following report contains ECRI's analysis and proposals concerning Estonia.

It should be noted that ECRI is carrying out its country-by-country procedure by preparing reports for all forty member States of the Council of Europe. This fourth series of reports, for which the procedure was completed by November 1998, will be followed by other series of reports during 1999 on the remaining member States of the Council of Europe. The order in which the reports are produced has no significance other than that these are the first reports to be completed.

The publication of this report represents the start of an on-going and active process of exchange between ECRI and the authorities of each of the member States, in order to identify solutions to the problems of racism and intolerance facing Europe. ECRI will also welcome the input of non-governmental organisations and other parties working in this field to ensure that its work is as constructive and helpful as possible.

As from 1999, ECRI is beginning a follow-up procedure to its country reports, examining what action governments may have taken on the proposals they contained, updating their contents generally and focusing on specific issues of concern in greater depth. Some 10 countries will be addressed annually in this way, over the period 1999-2002.

² *The first three series comprise reports on Belgium, Bulgaria, the Czech Republic, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, San Marino, Slovakia, Slovenia and Switzerland.*

³ *Reports on Denmark, Estonia, the Russian Federation, Spain and the United Kingdom.*

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Introduction

Estonia is a country in which independence has quite recently been re-established. It is a young democracy, passing through a period of transition politically, socially, economically and culturally. The problems identified in the country and the solutions put forward to deal with these problems should be seen against this background.

Considerable efforts have already been made in Estonia to strengthen the mechanisms of democracy, but it is evident that both time and above all resources are necessary to achieve this aim. The Estonian Government appears to be aware of the difficulties faced by the country's minority groups, but there is still a need for more understanding and further action in this respect.

A problem of special concern is the issue of citizenship. After the collapse of the Soviet Union, many people experienced difficulties in fulfilling the requirements for acquiring Estonian citizenship, and currently over 200,000 persons living in Estonia have no citizenship at all. Many of the current problems faced by Estonia as regards minority groups are connected in one way or another to the citizenship issue.

Estonia does not appear to be subject to severe and violent manifestations of racism, xenophobia or intolerance, although some anti-semitic incidents have occurred in recent years. In this stage of transition, vigilance is called for in the medium and long term to ensure that problems of racism and discrimination do not develop.

Some of the key areas identified by ECRI as meriting particular attention include:

- the problems faced by the Russian-speaking minorities⁵, particularly as regards their access to citizenship;
- the need to establish sufficient teaching of the Estonian language for non-native speakers;
- the need for awareness-raising among the general public and target groups as regards international legislation in the field of human rights.

⁴ **Note:** *Any development subsequent to 6 March 1998 is not covered by the following analysis and is not taken into account in the conclusions and proposals.*

⁵ *The term "Russian-speaking minorities" used in this text refers to persons belonging to different nationalities who use Russian as a lingua franca in Estonia*

I. LEGAL ASPECTS⁶

A. International legal instruments

1. Among the conventions of interest to ECRI, the government of the Republic of Estonia has not ratified the following:

- Convention of the International Labour Organisation concerning Discrimination in Respect of Employment and Occupation;
- UNESCO Convention against Discrimination in Education;
- European Social Charter;
- European Charter for Regional or Minority Languages;

2. Preparations for acceding to the ILO Convention concerning Discrimination in Respect of Employment and Occupation and the European Social Charter have started. ECRI encourages Estonia to continue its policy of ratifying international conventions as rapidly as possible, while recognising that Estonia wishes to change the domestic law to conform with the conventions before ratification. It is also considered that Estonia should accept Article 14 of CERD.

B. Constitutional law provisions

3. Equality of citizens as well as permanent residents is guaranteed by article 12 of the Estonian Constitution. This article also provides that the incitement to national, racial, political or religious hatred, violence or discrimination shall be prohibited and punishable by law. This is instituted under article 72(1) of the Penal Code. All residents of Estonia - whether citizens or not - are guaranteed basic rights under the Constitution, including the right to unemployment benefits and social services. The Constitution also provides for the right to preserve one's ethnic identity (Article 49), to establish institutions of self-government (Article 50) and the right to receive answers from the authorities in a minority language if at least half of the permanent residents of a locality belong to that minority group (Article 51).

C. Criminal law provisions

4. Article 72 of the Criminal Code prohibits the stirring up of national, racial, religious or political hatred. Article 72(1) prescribes a fine or a prison term for direct or indirect restriction of equality based - inter alia - on race.

⁶ *A full overview of the legislation existing in Estonia in the field of combating racism and intolerance is provided in the publication CRI (98) 80, prepared for ECRI by the Swiss Institute of Comparative Law (see bibliography)*

D. Civil and administrative law provisions

5. There do not appear to be any provisions in Estonian civil and administrative law covering racial discrimination in fields such as housing and employment. ECRI suggests that anti-discriminatory provisions in these and other civil law fields should be enacted, to allow for the possibility of civil action in cases of racial discrimination.

6. Only Estonian citizens have the right to vote in the general election. As regards local elections, permanent residents can vote after five years residence but cannot be elected (in exceptional cases, positions in local or state government can be filled by non-citizens or stateless persons). About one third of potential non-citizen voters registered to take part in the most recent local elections. ECRI feels that additional measures might be taken to encourage and facilitate the exercise of the right to vote in local elections for non-citizens, and to encourage non-citizens to participate in public life in a variety of ways.

7. Non-citizens who were occupying land and apartments before the re-establishment of independence in 1991 are entitled to privatise apartments on the same conditions as citizens. The only difference foreseen between citizens and non-citizens in this respect is when privatising land: in some border areas, the permission of the County Governor is required. ECRI feels that this may to a certain extent disadvantage non-citizens, and feels that the government should ensure that such rules do not discriminate against long-term resident non-citizens.

E. Law on citizenship and related problems

8. After Estonia regained its independence, only persons who enjoyed citizenship in 1940 and their descendants were automatically considered citizens. Those who came after 1940 and their descendants can only obtain Estonian citizenship by naturalisation. As a rule, former Soviet military and KGB personnel, or members of their families, cannot become Estonian citizens.

9. The Russian-speaking minorities number around one third of the Estonian population and represent a particularly high proportion in some urban areas. Some resentment exists on the part of Russian-speaking minorities who have experienced difficulties in fulfilling the requirements for obtaining citizenship and who are therefore obliged to register in order to obtain residence and work permits. Many of these persons have lived in Estonia for most or all of their lives; 56% of Russian-speakers voted for the independence of Estonia, and surveys show that about 70% of the non-citizen Russian-speaking population want to obtain Estonian citizenship. Of about 480 000 Russian-speakers living in Estonia in 1993, around 100 000 have acquired Estonian citizenship by naturalisation⁷.

⁷ *Of the 480 000 Russian-speakers in Estonia, an estimated 80 000 Russian-speakers hold Estonian citizenship by birth.*

10. A new Law on Citizenship was adopted by the Riigikogu on 19 January 1995, and came into force on 1 April 1995. Council of Europe experts assisted in its drafting. According to this law, a person who wishes to obtain Estonian citizenship can apply for naturalisation only after he or she has passed two exams: one is a general language exam, the other is an exam on the Estonian Constitution and citizenship law. Following several criticisms of both the language test and the constitution test, various changes have been made over recent years. In 1993 a law was passed adopting a more flexible approach towards applicants. This new law practically freed people born before January 1930 and category I invalids from the Estonian language examination requirements. Council of Europe experts have helped the Estonian authorities to carry out considerable reform of the language-testing for citizenship purposes over the last few years, and the revised examination worked out in co-operation with these experts has been applied since 1997. Six thousand persons passed the citizenship examinations between 1995 and 1997; the pass-rate for the examinations is now around 90%. ECRI hopes that the results of this new examination will continue to be monitored and any further changes made as necessary.

11. While welcoming efforts made over recent years to improve the possibilities for non-citizens to succeed in passing the Estonian language test, ECRI would welcome the extension of the more lenient requirements which have been set for older people to a wider range of older people, persons of a lower educational level and long-term residents. ECRI also considers that the examinations for the acquisition of citizenship should be free of charge.

12. A wide network of language centres teaching the Estonian language has been set up all over the country, and financing for language teaching is increasing, but despite these efforts, proper teaching of the Estonian language is in some cases not available. Furthermore, participants have to pay for the language lessons themselves. ECRI notes that the government plans to establish funds for compensating the costs of language studies, and welcomes and encourages this intention. ECRI also stresses that more extensive teaching of the Estonian language should be provided throughout the country, and that such education should be free of charge.

13. ECRI stresses the necessity of monitoring by the Estonian authorities of the application of the rules governing the granting of citizenship in order to ensure that this is carried out in an objective, non-discriminatory and transparent way and in accordance with international standards in this field.

14. Over 200 000 residents of the Republic of Estonia are now stateless persons. Of particular concern is the situation of children born in Estonia to stateless persons, since the latter are also automatically stateless from birth. The fact that these persons could apply for and expect to be granted Russian citizenship does not in ECRI's view mean that they are not stateless. In particular, children born in Estonia and who would otherwise be stateless should be granted Estonian citizenship. In this respect, ECRI welcomes the draft law presented by the Estonian government to Parliament, which would grant Estonian

citizenship to stateless children born on Estonian territory after 1992, and hopes that this law will be adopted and implemented without delay.

15. Persons resident in Estonia who have no citizenship have been given the possibility to obtain "aliens' passports". However, this "aliens' passport" gives the right to depart only to the limited number of countries that recognise it. ECRI notes that the OSCE High Commissioner on National Minorities and the government of Estonia have called upon all States to recognise "aliens' passports" as valid, and ECRI stresses that a solution must be identified to remedy this problem.

F. Laws relating to national minorities

16. A Law on Cultural Autonomy for National Minorities was passed on 26 October 1993. It stipulates the right of "individuals belonging to a national minority to establish cultural autonomy in order to achieve the cultural rights given to them by the constitution" and grants this right to four named minority groups, German, Russian, Swedish and Jewish, and to any other group of over 3,000 forming a national minority. Among the various provisions protecting minorities, it is stated that it is prohibited to ridicule and to obstruct the practice of ethnic cultural traditions and religious practices and to engage in any activity which is aimed at the forcible assimilation of national minorities.

Non-citizens residing in Estonia may participate in the activities of national, cultural and educational non-governmental organisations and religious congregations of national minorities. They are entitled to vote and be elected to the board of non-governmental organisations. They may not, however, vote or be elected to the leadership of cultural self-governments. ECRI feels that this restriction might be reconsidered.

Only citizens of Estonia can be recognised as national minorities under the law: Estonia has made a declaration to the Framework Convention on National Minorities which limits the definition of national minorities to citizens.

G. Specialised bodies

17. A Consultative Round Table was established in 1993 to deal with questions concerning national minorities, which includes members from the Russian-speaking communities (including non-citizens), the Minorities' Union and various political parties. This Round Table can prepare recommendations and proposals in a number of fields. In accordance with the guidelines set down in ECRI's general policy recommendation N° 2 on specialised bodies to combat racism and intolerance at national level, ECRI encourages the Estonian authorities to consider the establishment of an Ombudsman or similar institution to deal specifically with racism discrimination against minority groups.

II. POLICY ASPECTS

H. Education and training

- *Education of minority groups*

18. Teaching of the Estonian language is essential for minority groups in the country in order to secure their full rights and to allow for successful integration. Possible difficulties in this respect for applicants for citizenship has been mentioned under item 11. Furthermore, the education in Estonian in many Russian schools does not always meet the level required to pass the language exam for citizenship. ECRI urges the government to strengthen the efforts it has already made to remedy the situation.

19. Parents in Estonia have at present the choice between Estonian and Russian schools. In the year 2007, it is foreseen that all state and municipal gymnasiums (high schools) will be giving instruction in Estonian. ECRI suggests that this provision be reconsidered, particularly in the light of the size of the group of Russian-speaking residents in Estonia. A recent example in the field of education was the re-opening of the Jewish High School in Tallinn founded by the State. ECRI welcomes this initiative and hopes that the Government will allocate the means for other such schools.

- *Human rights education*

20. An inter-departmental Human Rights Information Centre has been established at Tallinn Pedagogical University and will be involved in promoting teaching on human rights and ethnic tolerance in the education of lawyers, police, teachers and social service professionals. Furthermore a project has been set up to produce a plan and textbooks for an optimal course in human rights for sixth to eighth grades. Another project - The Phare Project - includes training and teaching equipment on multi-culturalism in Estonia. ECRI welcomes these initiatives and hopes that Estonia will advance further in this area in the coming years.

I. Employment

21. Different sources show that the rate of unemployment among the Russian-speaking minorities is twice that of non-Russian speakers.⁸ ECRI is concerned that these figures may point to problems experienced on the labour market by Russian-speakers, and feels that the reasons for this discrepancy and in particular possible discrimination faced by Russian-speakers in obtaining employment should be investigated and remedied.

⁸ *According to the self-reported unemployment in a 1995 survey carried out by the University of Strathclyde, UK, the rate of unemployment among Russian-speaking minorities was 24% as compared to 11% among Estonian-speakers. Figures provided by the State Statistics Board in 1996 showed that 8% of Estonian-speakers compared to 14% of Russian-speakers were unemployed.*

J. Statistics

22. No information concerning minority groups has been collected on a national basis in Estonia since the census of 1989. The next census is planned to take place in the year 2000, and co-operation with international statistical organisations was initiated to this end in 1992 (University of Strathclyde 1993 and 1995).

K. Media

23. Some 130 newspapers are published in Estonia today including several Russian-language papers. Estonian Radio broadcasts in several languages. A Council for Free Expression has been established. ECRI understands that this Council is entrusted with overseeing the activities of the mass media including articles with a racist or xenophobic content. As a general statement it is important to remind persons on all sides to deal with acts of racism in a responsible way. A matter for discussion could be the possibility of increasing the number of Russian-language programmes on national television, as regards both information of a special interest to the non-Estonians and general information on the political, economic and social development in the country. Further, the number of language lessons in Estonian could be increased both on the radio and on television.

L. Other areas

- *Jewish community*

24. There is a small Jewish community in Estonia, whose number has decreased in recent years. Anti-Semitism is not reported to be a serious issue. Some incidents have however taken place lately, e.g. Jewish cemeteries have been vandalised, Jewish activists have received death threats and a bomb has exploded at the Jewish school in Tallinn.

- *Refugees*

25. The Refugees Act came into force in July 1997 at the same time as the entry into force of the 1951 Convention relating to the Status of Refugees and its Protocol in relation to Estonia. ECRI hopes that the necessary steps are being taken to implement this law and to provide adequate facilities for the reception of asylum-seekers and refugees. In particular, ECRI hopes that the former practice of keeping asylum-seekers, including children, in detention will not be repeated in the future.

General data as supplied by national authorities

For reasons of consistency, ECRI, in its CBC reports, has, in this box, reproduced statistical data only from the replies of Governments to ECRI's questionnaire. The questionnaire was sent to the Estonian government on 13 July 1994.

ECRI accepts no responsibility for the data below.

30% Russian, 3.1% Ukrainian, 1.8% White Russians, 1.1% Finns, 0.3% Jews, 0.2% Germans, 1.7% others

Main religious groups: Lutheran, Russian Orthodox, Christian and Baptist, Estonian Methodist, Seventh Day Adventists, Catholic congregations

* *Population: 1 506.9 million (1993). This figure is taken from the Council of Europe publication "Recent demographic developments in Europe" (see bibliography)*

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