



**International Convention on  
the Elimination  
of all Forms of  
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION  
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 9 OF THE CONVENTION**

**Fifth periodic reports of States parties due in 2000**

**Addendum**

**ESTONIA\***

[13 February 2002]

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\* This document contains the fifth periodic report of Estonia, due on 20 November 2000. For the initial to fourth periodic reports of Estonia submitted in one document and the summary records of the meetings at which the Committee considered it, see documents CERD/C/329/Add.2 and CERD/C/SR.1387-1388.

The annex to the report submitted by the Government of Estonia may be consulted in the files of the secretariat.

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## I. GENERAL INFORMATION

1. This report provides a detailed overview of measures taken by Estonia with respect to the International Convention on the Elimination of All Forms of Racial Discrimination.

2. The estimated population of Estonia at the beginning of 2001 was 1,370,100<sup>1</sup> people. The major ethnic groups were as follows:

Estonians	-	939,310
Russians	-	403,925
Ukrainians	-	36,467
Belarusians	-	21,125
Finns	-	12,762

3. Of the permanent population 80.8 per cent were born in Estonia, 13.9 per cent in the Russian Federation, 1.8 per cent in Ukraine, 1.1 per cent in Belarus and 1.6 per cent in other countries; for 0.8 per cent of the residents, the country of birth is unknown. In addition to Estonian citizens, the permanent population of Estonia includes citizens of various other countries: 80.1 per cent of the population hold Estonian citizenship, 6.2 per cent Russian citizenship, 0.2 per cent Ukrainian citizenship, 0.1 per cent Latvian citizenship, 0.1 per cent Belarusian citizenship, 0.1 per cent Lithuanian citizenship, 0.1 per cent Finnish citizenship and 0.1 per cent citizenship of other countries.

4. The distribution of persons with valid residence permits by citizenship at the beginning of year 2001 was as follows:

Citizenship	Percentage
Stateless persons	64
Russian	32
Ukrainian	1
Finnish	0.6
Belarusian	0.4
Lithuanian	0.4
United States	0.1
Others	1.5

Source: Citizenship and Migration Board.

<sup>1</sup> Source: 2000 Population and Housing Census.

	30.04.99	30.04.00	01.01.01
Individuals who have received Estonian citizenship by naturalization since 1992	107 200	111 716	113 764
Estimated number of non-ethnic Estonians holding Estonian citizenship by birth	80 000	80 000	80 000
Total number of Estonian citizens' passports (including children's passports) that have been issued	1 112 753	1 201 066	1 150 000
Aliens' passports issued	175 058	174 048	164 849
Total number of valid residence permits	310 666	279 876	273 766
Valid temporary residence permits	282 758	128 803	66 753
Valid permanent residence permits	27 908	151 073	207 013

Source: Citizenship and Migration Board.

5. The basic principles of legal protection against discrimination can be found in the Constitution of the Republic of Estonia. Several other laws contain provisions on the prohibition of discrimination, which are presented in more detail under Part II, article 2.
6. The general legal framework has been described in the core document that Estonia submitted to the United Nations in 2001.
7. The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, and of local governments. The ministries and public authorities are responsible within their own spheres of activity for implementing the principle of equality within the judicial system and for promoting such equality.
8. One of the major challenges facing the Estonian State today is the integration of its sizeable non-Estonian community into Estonian society. The cornerstone of Estonia's integration policy is the implementation of the State Integration Programme pertaining, above all, to a significant reduction in the number of persons with undetermined citizenship, a substantial breakthrough in teaching of the official language and full participation of non-Estonians in Estonian society at all levels.
9. The Government of Estonia has taken several measures to combat racism and ethnic discrimination. These measures can be divided into judicial measures, measures within the framework of the State Integration Plan and measures taken to grant equal opportunities. On 10 February 1998, the Government approved the integration policy document "The bases of Estonia's national integration policy for integrating non-Estonians into Estonian Society". The policy underwent deliberations in the Riigikogu and was adopted by the latter in June 1998. In 1999 the State programme "Integration in Estonian society 2000-2007" was elaborated by the Government Expert Commission. After a public discussion, the Government adopted the programme on 14 March 2000. The State programme is an action plan for governmental agencies and other institutions for the years 2000-2007 in the field of integration.

10. According to the government action plan, continuous attention is given to activities for raising public awareness. Relevant written and electronic publicity materials are prepared dealing with integration issues. Through the Integration Foundation, a public communication programme has been started to promote integration. The programme involves a comprehensive media campaign aimed at raising the public awareness of integration processes, reducing barriers between the Estonian and Russian-language media, and creating a positive attitude towards different cultures. The integration issues are dealt with in more detail under article 2 of this report.

11. On 31 March 1998, the Government established The Non-Estonians Integration Foundation to develop and coordinate the national integration processes.

12. An expert committee has been established to review population policy assessments, needs, action plans and legislation, and to work out conceptual standpoints. The aim of the government committee is to develop a national youth and family policy concept and to provide legislative counselling on youth and family policy issues. A committee has also been formed to deal with issues of integrating ethnic minorities into Estonian society and to make relevant proposals to the Government of the Republic. This committee prepared the Integration Programme, gathering information and proposals from ministries and their agencies, county governments and other establishments and organizations for drawing up the working versions of the national programme.

13. In May 1997, a new post of Minister for Population and Ethnic Affairs was instituted, with responsibility, inter alia, for integration issues. In September 1999, the Estonian Government decided to open a bureau of the office of the Minister for Population and Ethnic Affairs in the north-eastern town of Jõhvi. The office has a coordinating function and plays an active role in implementing government policies in the region.

14. In June 2001, the local bureau of the Legal Chancellor was opened in Ida-Viru County. The representative of the Legal Chancellor receives people in Narva, Sillamäe and Jõhvi. The opening of the bureau of the Legal Chancellor has given the people of Ida-Viru County better access to the office of the Legal Chancellor for submitting applications and petitions.

### **Judicial measures**

15. Conventions ratified by Estonia since the submission of the first report to CERD:

The amended and revised European Social Charter;

European Convention on Mutual Assistance in Criminal Matters;

European Convention on Information on Foreign Laws;

European Convention on the International Validity of Criminal Judgements;

European Convention on the Transfer of Proceedings in Criminal Matters;

Additional Protocol I of 8 June 1977 relating to the Protection of Victims in International Armed Conflicts to the Geneva Conventions of 12 August 1949;

Additional Protocol II of 8 June 1977 relating to the Protection of Victims in Non-International Armed Conflicts to the Geneva Conventions of 12 August 1949;

European Convention on the Service Abroad of Documents relating to Administrative Matters;

European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children;

Additional Protocol to the European Convention on the Transfer of Sentenced Persons;

Civil Law Convention on Corruption.

16. The draft Gender Equality Act has been drawn up and approved by the Government. The aim of the Act is to guarantee the implementation of the principle of gender equality in social and political life. The Act is intended to hinder discrimination on the basis of sex, to promote gender equality in society in general, improving the situation of the disadvantaged or underrepresented sex in all fields of social life, first and foremost in employment. The draft Act aims at achieving gender equality and also stipulates the use of positive measures or special treatment.

17. Under the leadership of the Ministry of Justice, a draft Equality Act has been drawn up that regulates the promotion and protection of equality regardless of sex, race, nationality, age, disability, sexual orientation, or religious or political beliefs. The aim of the Act is to guarantee equality as an equal right, obligation, possibility and responsibility of all people in employment, education and other cases prescribed by law. The draft Act provides for the creation of an equality council that will monitor and analyse the implementation of the principles of equality and supervise compliance with the principle of equality.

## **II. INFORMATION CONCERNING ARTICLES 2 TO 7**

### **Article 2**

18. Racism, intolerance and discrimination are combated in several ways. First of all, the Constitution of the Republic of Estonia provides the basic principles. Chapter II of the Constitution guarantees the fundamental rights, freedoms and duties.

19. The rights, freedoms and duties of each and every person, as set out in the Constitution, shall be equal for Estonian citizens and for citizens of foreign States and stateless persons in Estonia (art. 9). Rights and freedoms may be restricted only in accordance with the Constitution. Such restrictions must be necessary in a democratic society and shall not distort the nature of the rights and freedoms restricted (art. 11).

20. According to the Constitution, everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or discrimination between social strata shall, by law, also be prohibited and punishable (art. 12).
21. The Constitution sets out that everyone has a right to the protection of the State and of the law. The law shall protect everyone from the arbitrary exercise of State authority. The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, and of local governments (arts. 13, 14).
22. In order to give effect to the provisions of the Constitution in relation to the prohibition of discrimination, Parliament has adopted several legislative acts.
23. The following are examples of the current laws that prohibit discrimination:
- (i) Article 5 of the *Advertising Act* prohibits all offensive and discriminating advertising. An advertisement is offensive if it is contrary to good morals and customs, calls on people to act unlawfully or to violate prevailing standards of decency, or if it contains such activities. An advertisement is considered offensive in particular if the advertisement presents, incites or endorses discrimination on the grounds of nationality, race, colour, sex, age, language, origin, religion, political or other opinion, and financial or social status or other circumstances.
  - (ii) Article 5 of the *Wages Act* establishes the principle of equal pay for the same work or for work of equal value and prohibits discrimination on the grounds of sex with regard to all aspects and conditions of remuneration.
  - (iii) Article 10 of the *Employment Contracts Act* prohibits illegal preferences and restriction of rights as follows: “It is illegal to allow or give preference to, or to restrict rights, on the grounds of the sex, ethnicity, colour, race, native language, social origin, social status, previous activities, religion, political or other opinion, or attitude towards the duty to serve in the armed forces of employees or employers.” Under preparation is the *draft Employment Contracts Act*, which prohibits direct and indirect discrimination.
  - (iv) The *Employment Services Act* establishes the principles for the rendering of employment services. According to these principles, preferences shall not be given in the provision of employment services and the rights of persons who seek employment shall not be restricted on the grounds of their nationality, sex, age, type of disability, sexual orientation, colour, race, social origin, social status, religion, political or other beliefs, or representation of the interests of employees or employers, unless it is prescribed by other Acts (art. 6).

- (v) The *draft Gender Equality Act* clarifies terminology and definitions with regard to the principle of equality, prohibits direct discrimination and provides measures against indirect discrimination.

### **Estonian penal legislation**

24. The penal law reform started in 1995 on the initiative of the Ministry of Justice to develop a flexible system of sanctions and to introduce effective alternatives to imprisonment. The Penal Code is one of the most important laws in the legislative package intended for the implementation of the penal law reform (draft Code of Criminal Procedure, draft Code of Misdemeanour Procedure). Several important draft laws foreseen in the concept of the penal law reform have already been passed: including the Probation Supervision Act, the State Compensation of Victims of Crime Act and the Imprisonment Act.

25. On 6 June 2001, Parliament adopted the new Penal Code, which will replace the current Criminal Code. At the present moment, a special act is being prepared to introduce the new code.

26. The Criminal Code provides punishments for acts motivated by racism or racial discrimination in the special chapter that includes crimes against humanity and incitement of racial hatred. These crimes are described in more detail under article 4.

### **Criminal procedure**

27. The draft Code of Criminal Procedure is currently before Parliament and it is one of the draft laws that have been drawn up in the context of the penal law reform. In replacing the current Code of Criminal Procedure the new law will have to provide a basis for proceeding against the offences stipulated in the Penal Code.

28. Pursuant to article 13 of the Code of Criminal Procedure, justice in criminal matters is administered according to the principle of equality of persons before the courts regardless of origin, social status, financial situation, race, nationality, gender, education and other circumstances.

### **Civil and administrative law provisions**

29. Principles of non-discrimination are also prescribed under civil and administrative procedure.

30. Pursuant to article 6 of the Code of Civil Court Procedure, all persons are equal before the law and the court in the administration of justice in civil matters.

31. An important improvement in Estonian legislation is the new Administrative Court Procedure Act, which took effect on 1 January 2000. Under the old law, everyone had the possibility to dispute the acts and procedures of administrative bodies and officials and the court



had the powers to declare the disputed acts or procedures illegal and the court proposed the pertinent body or official to review the matter and to make a new decision or to perform a new procedure.

32. According to the new law, the administrative court has more powers. The court has also powers to quash the legal act in its entirety or partially. The administrative court may also decide that the administrative body or official should pay compensation for the damage caused by the illegal legislative act or illegal procedures.

33. Another important legal act is the State Liability Act, which provides for the protection and restoration of rights that have been violated in the course of the implementation of powers by a public authority and in the exercise of other public functions, and provides the basis and procedure for the compensation of damage caused (State liability).

34. According to this Act, a person whose rights have been violated through the unlawful activity of a public authority in a public-legal relationship may demand that both material and non-material damage caused to him or her be compensated. A natural person may demand monetary compensation of non-material damage in the case of culpable degradation of his or her dignity, damaging of health, deprivation of liberty, infringement of inviolability of home or private life or confidentiality of information, and defamation of honour and good name. An application for the compensation of damage may be filed with the administrative agency that caused the damage or a complaint may be filed with an administrative court. The State Liability Act will enter into force on 1 January 2002.

### **System of compensation and rehabilitation for victims**

35. According to article 25 of the Constitution everyone has the right to compensation for moral and material damage caused by the unlawful action of any person.

36. The protection of private life is regulated by the General Principles of the Civil Code Act that stipulate that everyone has the right to demand termination of a violation of the inviolability of his/her private life and to demand compensation for moral and proprietary damage caused thereby (art. 24). Also, a person whose interests are damaged by the use of his/her name or publicly used pseudonym may demand compensation of damage (art. 25).

37. A person has the right to demand termination of defamation, refutation of defamatory information concerning the person and compensation for moral and proprietary damage caused by the defamation by a court proceeding, unless the defamer proves the accuracy of the information. If inaccurate information is disseminated through a mass medium, it will be refuted in the same mass medium. A document that contains inaccurate information will be replaced (art. 23).

38. According to the Act for the Compensation of Damage Caused to the Person by the State through Unfounded Deprivation of Liberty, compensation is awarded to a person:

Who was under arrest with the permission of the court and in whose case the ruling to initiate criminal proceedings has been annulled, the proceedings have been terminated at the stage of preliminary investigation or investigation or at an organizational meeting of the court, or with respect to whom an acquitting decision has been made;

Who had been detained on suspicion of committing a crime and was released on the dropping of charges;

Who was serving a sentence of imprisonment and whose conviction has been annulled and the criminal proceedings terminated or an acquittal has been pronounced;

Who served a sentence of imprisonment longer than the sentence originally imposed on him/her;

Who had been placed in a psychiatric hospital without ground by the court in connection with the commission of an act with the characteristics of an offence and in whose case the court ruling has been annulled;

Who served a period in administrative detention and the decision to detain him/her has been annulled;

Who had been deprived of liberty without ground or without disciplinary, administrative or criminal proceedings, on the decision of an official authorized to order deprivation of liberty, if such proceedings were compulsory (art. 1).

39. The Ministry of Social Affairs has submitted to the Government a national criminal prevention subprogramme "Creating a system for assisting victims of crime". Victims of crime include people who have become victims of negligent or bad treatment, physical, mental or sexual violence, i.e. people who have been caused suffering or damage by another person, group of persons or an organization, regardless of whether the identity of the person causing the damage has been ascertained or whether criminal proceedings have been brought against that person. The aim of the subprogramme is to create an organized database of victims of crime.

40. In Estonia, there are currently assistance services to help victims of crime, there is the *Ohvriabi* Society for Supporting Victims of Crime and there are also shelters. Counselling of victims, their representation in court and the provision of financial support and crisis assistance are organized through the Social Rehabilitation Centre and the Society for Supporting Victims of Crime. Rehabilitation of victims is provided through rehabilitation services.

41. The central law with regard to the subprogramme is the State Compensation of Victims of Crime Act. The aim of the law is to regulate the alleviation of the financial situation of victims of severe violent crimes by way of payment of compensation by the State. State aid is also given to the victims within the social welfare and social insurance framework, but these

systems do not cover all victims in need of assistance and the aid provided does not cover the whole amount of damage arising as a result of the crime. The system of payment of compensation described in the law is an important supplement to the assistance provided to victims of crime as one target group within social law. Compensation is paid only to those victims of crime who do not receive compensation from other sources for the damage caused through crime.

42. Estonian citizens and foreigners residing in Estonia on the basis of a temporary or permanent residence permit have the right to compensation for damage resulting from a violent crime. The compensation is not meant to compensate the victim fully for the damage caused to him/her but to support the financial situation of the victim and his/her family or prevent the deterioration of that situation.

43. According to the State Compensation of Victims of Crime Act, the amount of compensation provided by the State is 50 per cent, i.e. half of the amount of damage which is the basis for calculating the compensation. In calculating the damage, the law proceeds from the individual situation of every victim or his/her dependants, i.e. mainly the victim's income before the violent crime was committed.

#### **Integration of the non-Estonian-speaking population into Estonian society**

44. The Government proceeds from the constitutional principle of guaranteeing the preservation of the Estonian nation and culture through the ages, at the same time protecting the human rights and freedoms of everyone living in Estonia, irrespective of their ethnic origin, religion, language and citizenship.

45. The concept of the integration of the non-Estonian-speaking population into Estonian society has been implemented since 1999 when the State programme "Integration in Estonian Society 2000-2007" was elaborated by a government expert commission. After a public discussion, the Government adopted the programme on 14 March 2000. It has also been submitted to the Riigikogu (Parliament) for discussion and is available to everybody (in Estonian, Russian and English) on the Internet - <http://www.riik.ee/saks/ikomisjon/>.

46. The integration programme is based on Estonia's national and social interest and on the goals of developing a European, integrated society and preserving stability. The task of the State is both to support the development of Estonian culture and to guarantee minorities opportunities for cultural development.

47. The State programme is an action plan for governmental agencies and other institutions for the years 2000-2007 in the field of integration.

48. According to the State programme, integration into Estonian society is characterized by two processes:

The social harmonization of society, based on knowledge of the Estonian language and the possession of Estonian citizenship; and

The creation of conditions for maintaining ethnic differences based on the recognition of cultural rights of ethnic minorities.

The harmonization of society is a two-way process - integration of both Estonians and non-Estonians around a strong common core.

49. The outcome of the integration process in Estonia is a multicultural society characterized by cultural pluralism, a strong common core and the development of Estonian culture.

50. There are positive changes in attitudes of both Estonians and non-Estonians to integration. A survey carried out in 1999 showed that the integration process has reached a phase of acclimatization among non-Estonians and a phase of tolerance among Estonians.

51. The main aims of integration as specified in the programme are:

Linguistic-communicative integration, i.e. a common sphere of information and re-creation of the Estonian-language environment under conditions of cultural diversity and tolerance. The emergence of a common Estonian-language society will take place in parallel to the creation of favourable conditions for the development of the languages and cultures of ethnic minorities.

Legal-political integration, i.e. the formation of a population loyal to the Estonian State and the reduction of the number of persons without Estonian citizenship. The naturalization process will become more productive and conditions for the effective participation of citizens, regardless of their ethnic origin, in political structures will be created.

Socio-economic integration, i.e. increasing of the competitiveness and social mobility of every member of Estonian society through intensive language training and various regional policy initiatives.

52. The State programme has the following four subprogrammes:

(a) **The “Education” subprogramme**, pursuing the following objectives:

- (i) That elementary school graduates are socially competent and have medium-level knowledge of the Estonian language;
- (ii) That secondary school graduates have the level of knowledge of the Estonian language necessary for everyday life and work and are capable of continuing their studies in Estonian;

(b) **“The education and culture of ethnic minorities” subprogramme**, the objective being that ethnic minorities possess opportunities to acquire education in their mother tongue and preserve their culture.

(c) **“The teaching of Estonian to adults” subprogramme**, aimed at creating opportunities for non-Estonian adults to improve their knowledge of Estonian and raise their sociocultural competence.

(d) **The “Social competence” subprogramme**, setting the following objectives:

- (i) That individuals participate actively in the development of civil society;
- (ii) That attitudes of Estonians and non-Estonians are favourable to the achievement of the main aims of the State programme;
- (iii) That improvement of the situation of socially vulnerable groups.

**Table 1**

**Consolidated budget for subprogrammes for the years 2000-2003<sup>a</sup>**

Subprogramme	Budget (thousands of Estonian Kroons)				
	Source	2000	2001	2002	2003
I. Education	State budget	14 276.2	13 126.6	22 891.8	23 432.8
	Foreign aid	12 681.5	10 555.5	18 174.1	7 900.2
	Total	26 957.7	23 682.1	41 065.9	31 333
II. Education and culture of ethnic minorities	State budget	2 873.7	2 830	3 665	3 515
	Foreign aid	521	1 348	750	750
	Total	3 394.7	4 178	44 415	4 265
III. Teaching of Estonian to adults	State budget	1 130.8	1 288	1 125	1 325
	Foreign aid	12 617	5 081.38	11 532.5	4 066.78
	Total	13 747.8	6 369.38	12 657.5	5 391.78
IV. Social competence	State budget	1 236.1	1 332.6	2 020	2 035
	Foreign aid	2 172.3	5 871.6	4 531	3 330
	Total	3 408.4	7 204.2	6 551	5 365
V. Management and evaluation of the State programme and institutional capacity-building	State budget	3 279.2	4 394.2	4 620	4 610
	Foreign aid	2 454.8	1 973.5	1 970	1 850
	Total	5 734	6 367.7	6 590	6 460
Sum total I-V:	State budget	22 796.0	22 971.4	34 321.8	34 917.8
	Foreign aid	30 446.6	24 830.0	36 957.6	17 897.0
	Total	53 242.6	47 801.4	71 279.4	52 814.8

<sup>a</sup> Does not include other direct allocations for integration from local governments, private enterprises, embassies, etc., nor permanent support by the State and local governments for administrative costs for the functioning of the Russian-medium school system, Russian-language public media and cultural institutions of ethnic minorities.

53. In 2000-2003, activities will be financed mainly from the budgets of several ministries (including the Ministries of Education, Defence, Culture, Agriculture, Internal Affairs, and Social Affairs) and from the State budget resources of the Integration Foundation. Also, the budget includes foreign aid resources, from the European Union (EU) Phare Programme, Canada, Denmark, Sweden, Finland, Norway, the United Kingdom, the United States and the United Nations Development Programme and others. Several activities will be implemented jointly from the resources of ministries and foreign donors in the framework of co-financed projects.

#### **Other activities promoting integration**

54. In recent years, the Government of Estonia has taken a number of significant political and administrative steps to further the integration process:

##### **(a) In the field of education**

55. The Ministry of Education and the Integration Foundation have jointly organized the production of a large number of study materials (dictionaries, text books, CDs, language proficiency test materials, etc.) as well as training courses for teachers in Russian-medium schools and language training firms. By May 2000, about 3,700 graduates of Russian-medium gymnasiums and about 2,000 graduates of Russian-medium basic schools have registered for the Estonian language proficiency test, which is now unified with the Estonian language State examination at Russian intermediary-level schools.

56. In December 1999, a large-scale project (3.624 million Canadian dollars over four years) "Language immersion in Estonian schools" was launched by the Canadian International Development Agency (CIDA), the Toronto School Board, Finland and the Council of Europe.

57. About 3,000 Russian-speaking children participated in language camps and stayed in Estonian families in summer 2000 to promote their fluency in the Estonian language and strengthen contacts between Estonian-speaking and Russian-speaking youth.

##### **(b) In the field of language training**

58. The EU Phare Estonian Language Training Programme (hereinafter the Phare Programme) has significantly increased the motivation of non-Estonians to pass the Estonian language proficiency tests. By May 2000, about 7,000 people have registered for Estonian language courses in the framework of a course fee reimbursement system established by the Phare Programme.

59. The Phare Programme is organizing language training for high-priority social groups, as well as risk groups from the north-east region of Estonia, including non-Estonian police officers, recruits, medical workers, unemployed persons, etc. It will improve their professional skills and knowledge of Estonian.

**(c) In the field of social security**

60. The Integration Foundation has elaborated and launched a model of professional practice in other regions of Estonia for Russian-speaking persons from the North-East region of Estonia, including police officers, teachers, local government officials, medical workers, etc.

**(d) In the field of mass media**

61. A large-scale media campaign “Integrating Estonia” was launched in August 1999 with a total budget of EK 2.5 million. In the framework of the media campaign, public advertising campaigns “Lots of great people” and “Interest” are being launched, an integration-related television series “Estonia on the air” is being produced, an integration-oriented Russian language insert “Istoki” is being published in the newspaper *Põhjarannik*, etc. As the development of the media campaign has indicated, media enterprises are playing an increasing role in funding and promoting integration-related activities of the mass media.

**(e) In the field of culture and education of ethnic minorities**

62. Cultural societies of ethnic minorities have received significant financial and technical support, including EK 2,485,000 from the State budget and EK 420,000 from foreign donors in 2000. In addition to the funds of the State programme in 2000, local governments have stepped up their support to cultural and educational activities of ethnic minorities. For example, Tallinn City Government has allocated EK 5 million in 2000 to support cultural societies of ethnic minorities.

**(f) In the field of citizenship issues**

63. The Citizenship and Migration Board, the Integration Foundation and other institutions are elaborating a new model for the citizenship examination in order to make it more comprehensive. In addition, the Citizenship and Migration Board has carried out customer service training for its officials, produced materials for applicants for residence permits and citizenship, etc. Special attention is being paid to increasing its capacity to process applications for residence permits, e.g. by ensuring access to relevant information via the Internet, etc.

64. On the initiative of the Citizenship and Migration Board, every year in November Citizen’s Day is celebrated nationwide in Estonia. The events of the day are mainly organized by the Citizenship and Migration Board. The events focus on the importance of becoming and being a citizen, social integration and promoting it through the media, educational institutions and elsewhere.

65. In cooperation with the Nordic countries/United Nations Development Programme, in the framework of the project “Support to National Integration Programme”, a training project “Increasing the integration potential of the Citizenship and Migration Board” has been started. The main aim of the training project is to raise the customer service quality of the Citizenship and Migration Board in order to promote integration of non-Estonians in Estonia. In the framework of a project of the Council of Europe and the European Commission, five different sets of information materials in Russian were prepared by the Citizenship and Migration Board

to explain the residence permit. The materials were distributed first and foremost in schools in Ida-Viru county and Tallinn. In Ida-Viru county direct mail distribution was used. In the framework of the same project, a documentary video film "Foreigners in their own country" was produced and will be distributed in Russian-language schools.

66. In June 1999, a pilot project "Estonian language and civic training in the Estonian defence forces" was launched. On 29 November 1999, the Minister for Population and Ethnic Affairs and the Minister of Defence signed an agreement whereby all conscripts of non-Estonian origin will have the possibility to study Estonian during their first three months of military service. In 2000, the Ministry of Defence allocated EK 750,000 from its budget to finance this initiative. Together with EK 400,000 provided by the EU Phare Estonian language training programme through its refunding project, a total of EK 1,150,000 will be spent to improve the language skills of recruits.

67. In 2000, EK 5.7 million was allocated from the State budget to the Integration Foundation to implement activities fostering integration. The Foundation, entrusted with the task of coordinating the use of relevant resources, has to date supported more than 50 integration-related projects from these resources.

### **Most important results of the State Integration Programme in 2000**

#### **68. "Education" subprogramme**

Preparation and implementation of the transition to Estonian as language of instruction in non-Estonian-language State and municipal upper secondary schools, including:

47 headmasters of Russian-language schools completed administrative training and 71 headmasters completed training in language immersion.

The improvement of the quality of Estonian language instruction in non-Estonian-language schools, including:

Language immersion methodology was introduced in four Russian-language schools;

1,050 teachers participated in 62 training sessions of the regional continuing education network for the teaching of Estonian as a second language;

Tens of sets of Estonian language teaching materials and materials for teaching subjects in the Estonian language were published;

Strengthening of contacts between Estonian and non-Estonian-speaking youth and families, including:

Roughly 3,000 non-Estonian-speaking children participated in Estonian summer language camps and family study.



69. **“The education and culture of ethnic minorities” subprogramme**

Support for the activities of ethnic cultural societies, art groups and Sunday schools, including:

Financing of about 160 different projects and other activities.

70. **“The teaching of Estonian to adults” subprogramme**

Organizing teaching of Estonian to adults, including:

Estonian courses in which about 8,000 students participated;

Implementation of a campaign to encourage language learning, entitled “Interest”.

71. **“Social competence” subprogramme**

Support for political and legal integration, including:

The celebration of Citizens’ Day on 26 November 2000 and the carrying out of an extensive social advertising campaign entitled “A richer country”, encouraging application for citizenship;

Development of a new model for the examination of knowledge of the Constitution of the Republic of Estonia and of the Citizenship Act;

Distribution of information by organizing information days, programmes and campaigns, and publishing articles, including:

Support for two television programme projects (*Eetris on Eesti, Sputnik*);

Implementation of an extensive tolerance-building social advertising campaign entitled “Lots of great people”.

72. **Management and evaluation of the State programme and institutional capacity-building**

A general monitoring survey and a media monitoring survey were commissioned from research groups and the results assembled in the publications *Integration in Estonian society: monitoring 2000* and *The reporting of integration processes in the Estonian media in 2000*.

An interim evaluation of the EU Phare Estonian Language Training Programme 1998-2000 and the Nordic Countries/United Kingdom/United Nations Development Programme project “Support for the State Integration Programme” 1998-2001 was ordered from an independent international assessment commission.

**Other measures to combat discrimination**

73. On 7 September 1999, the Estonian Government decided to open a bureau of the office of the Minister for Population and Ethnic Affairs in the north-eastern town of Jõhvi and allocated EK 876,100 to this end. The office has a coordinating function and plays an active role in implementing government policies in the region. One of the tasks of the office is to foster cooperation between the Minister's office and several organizations, cultural associations and NGOs representing various ethnic groups, thus enabling them to participate more actively in the policy-making process.

74. On 6 June 2001, a local office of the Legal Chancellor was opened in the Narva city government building. A representative of the Legal Chancellor also receives people in Sillamäe and Jõhvi. Reception of persons is on two days a week in order to guarantee access for all to the institution of the Legal Chancellor. In addition, articles introducing the activities of the Legal Chancellor are published in the media in Ida-Viru county, including in the newspaper *Virumaa Teataja*.

75. In addition to the aforementioned legislative, judicial and administrative measures, a non-judicial International Commission for Research into Crimes Against Humanity was established in 1998. It presents the results of its research to the President of the Republic and to the Prime Minister of Estonia. In 1999 the Foundation for Research into Crimes Against Humanity was established, whose task is to organize and finance the activities of the Commission. It is the task of the Research Commission to ascertain crimes perpetrated against humanity by the Nazi and Soviet occupation authorities in Estonia in the period 1939-1991. Public figures from Estonia and abroad have been invited to participate in the work of the Commission, as well as representatives of non-governmental organizations.

76. In 1993, the Government established the Criminal Prevention Council. The basic principles for crime prevention were set out in the development concept "Description and development strategy of the system for the prevention of crime for 2000-2003". At the national level, prevention work is carried out in accordance with the National Strategy for the Prevention of Crime until 2005.

77. The activities of the Crime Prevention Council take place at the national level, at the local government level and at the level of the population. At the national level, various ministers and law enforcement agencies are involved in prevention work to guarantee effective implementation of the strategy by ministries. Representatives of local government units and regions are involved in the work of the Council in order to raise problems of local crime at the national level and to guarantee feedback between the national and local governments. At the level of the population, representatives of non-profit associations and pertinent business undertakings participate in the work of the Council, in which representatives of scientific institutions are also involved in order to analyse the causes of criminal situations, as a basis for working out successful preventive measures and assessing them.

78. In 1997, training of civil servants, workers of various ministries, boards, inspectorates, city and county governments was started with the aim of creating a network and designating contact persons who would be able to recognize and analyse cases of discrimination. A network of civil servants has been created, comprised of representatives of the Ministry of Social Affairs, the Ministry of Internal Affairs, the Ministry of Agriculture, the Ministry of Justice and the Ministry of Education.

79. In June 2001, a training seminar was organized by the Ministry of Internal Affairs in cooperation with the Federal Bureau of Investigation (FBI) on the topic of preventing national hatred. The training was intended for police officers, prosecutors and judges, and it was aimed at preparing society for a situation in which conflicts originating in national or other prejudices should become a serious problem. Lectures given by FBI agents were attended by police officers from Tallinn, Tartu and Pärnu.

80. In 2001, the Ministry of Internal Affairs organized various seminars for police officers on human rights issues, for instance: "Protection of human rights"; "Family violence"; "Protection of human rights in Europe and in Estonia"; "Humanitarian affairs and human rights".

81. In Estonia, during the past few years some cases have been reported of racism against dark-skinned people coming to Estonia for study or work. From October 1999 to August 2000, seven such cases were registered, and all were connected with the so-called skinheads. Skinhead activity is greater in urban areas (Tallinn, Tartu). Basically, these were cases of oral insult. Physical violence occurred in only one incident. In five of the seven cases mentioned, those guilty were identified and punished by administrative courts with detention or fines.

82. Though in Estonia a rightist extreme is presently lacking and the skinhead movement remains low in numbers and is unorganized, the relevant State authorities are determined to block any skinhead movement or the domestic emergence of a possible extreme right and to cut off their international contacts, in cooperation with partner services of other countries. The security police have for years been keeping the activities of these extremist-minded organizations under surveillance, in case there is information about possible crimes being planned by their members. Special attention has so far been given to identifying and arraigning people who incite racist and nationalist animosity by means of leaflets and posters over the Internet.

### **Article 3**

83. In 1991 the Estonian Parliament ratified the Convention on the Prevention and Punishment of the Crime of Genocide. There is no racial segregation or apartheid in Estonia. The provisions of the Criminal Code for the punishment of statements or actions that involve discrimination on ethnic grounds are presented under article 4.

#### **Article 4**

##### **(a) Criminal laws prohibiting racial discrimination**

84. Estonia has adopted several legislative acts to prohibit all forms of racial discrimination. Acts motivated by racism or racial discrimination are punishable under the provisions of the Criminal Code. As was said above, criminal law reform has been under way since 1995. In the light of the reform, a new Penal Code has been adopted; it establishes somewhat stricter punishments for these offences and also makes it punishable to discriminate on the basis of hereditary risks. There is a separate section on the punishment of the crime of genocide.

85. The Criminal Code makes the following crimes punishable:

##### **Article 61<sup>1</sup>. Crime against humanity:**

(1) Committing a crime against humanity, including genocide, as those crimes are defined in the provisions of international law, that is, wilful acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, a group offering resistance to the occupying regime or other group, killing or causing serious or permanent or life threatening bodily or mental harm or torturing members of the group, forcibly taking away children, armed attack, deportation or banishment of the native population in time of occupation or annexation, depriving or limiting economic, political and social rights - is punishable by 8 to 15 years' imprisonment or by life imprisonment.

(2) The representative of an authority with whose consent a crime indicated in the first section was committed, shall be liable as an accomplice for committing the crime.

##### **Article 72. Incitement of national, racial, religious or political hatred, violence or discrimination:**

(1) Incitement of national, racial, religious or political hatred, violence or discrimination is punishable by a fine or detention or up to one year's imprisonment.

(2) The same activities, if they resulted in the death or injury of a person or any other severe consequences, are punishable by up to three years' imprisonment.

##### **Article 72<sup>1</sup>. Violation of equality:**

Directly or indirectly restricting a person's rights or granting a person direct or indirect preferences on the basis of his or her nationality, race, colour, sex, language, origin, religion, political or other conviction, financial or social status or other circumstances is punishable by a fine or detention.

86. The new Penal Code establishes the following types of crimes and respective punishments:

**Article 88. Punishment for the offences against humanity and international security:**

(1) In addition to the direct perpetrator of the offence against humanity and international security, the representative of State power or military authority who has given a command for committing the offence or under whose consent the offence has been committed or who has not prevented the commission of the offence although it was in his or her power, shall be punished.

(2) Commission of a crime against humanity and international security at the command of the representative of State power or military authority does not exempt the perpetrator of the crime from punishment.

**Article 89. Crime against humanity:**

Systematic or large-scale deprivation or limitation of human rights and freedoms, and the killing, torture, rape, causing of bodily harm, forced transfer, deportation, forcing into prostitution, unfounded deprivation of liberty or other wrongful treatment of the civilian population, instigated or directed by the State or by an organization or group, is punishable by 8 to 20 years' imprisonment or by life imprisonment.

**Article 90. Genocide:**

Killing, torturing, causing bodily harm, imposing measures intended to prevent births within the group or forcibly depriving children of a national, ethnic, racial, religious group, of a group offering resistance to the occupying regime or of another social group or its members, with intent to destroy the group, in whole or in part, also putting members of a group in dangerous living conditions to bring about the destruction of the group, in whole or in part, is punishable by 10 to 20 years' imprisonment or life imprisonment.

**Article 151. Incitement of social hatred:**

Activities involving a public call to hatred or violence in connection with nationality, race, colour, sex, language, origin, religion, political conviction, financial or social status are punishable by a fine or up to three years' imprisonment.

**Article 152. Violation of equality:**

Unlawful restriction of a person's rights or granting a person unlawful preferences on the basis of his or her nationality, race, colour, sex, language, origin, religion, political conviction, financial or social status are punishable by a fine or up to one year's imprisonment.

**Article 153. Discrimination on the basis of genetic risks:**

Unlawful limitation of a person's rights or giving unlawful preferences to a person on the basis of his or her genetic risks is punishable by a fine or up to one year's imprisonment.

87. According to article 105 of the Code of Criminal Procedure, crimes against humanity (Criminal Code, art. 61<sup>1</sup>), incitement of national, racial, religious or political hatred, violence or discrimination (Criminal Code, art. 72) and violation of equality (Criminal Code, art. 72<sup>1</sup>) are under the investigative jurisdiction of the Security Police.

88. The most important task of the Security Police in re-independent Estonia has been the protection of the constitutional order and territorial integrity, which may be threatened by forces operating domestically or in foreign countries. Crimes against the State are as a rule characterized by a high level of conspiracy and the setting of long-term objectives. Arising from this, the task of the Security Police is to keep potential anti-constitutional activities of extremist-minded persons and movements under control.

89. The main resources and forces of the Security Police are used for preventive action and so far crimes under preparation have been stopped without applying criminal sanctions. In the near future the Security Police will continue to monitor groups of extremist-minded persons in order to prevent and obstruct anti-constitutional activities and if necessary carry out pre-trial criminal procedures.

90. Under Article 72<sup>1</sup> of the Criminal Code, the Security Police have initiated one criminal case (1998). On the basis of article 72<sup>1</sup> of the Criminal Code, the Security Police have initiated 14 criminal cases. Under this provision, three persons have been convicted (1995 - 1 (Tartu City Court), 1998 - 2 (Tallinn City Court)).

**Table 2****Offences recorded and cleared up in 1999-2001**

Criminal Code	1999		2000		2001 (11 months)	
	Recorded	Cleared up	Recorded	Cleared up	Recorded	Cleared up
Article 61 <sup>1</sup>	2	0	3	0	2	0
Article 72	1	1	2	1	2	2
Article 72 <sup>1</sup>	0	0	0	0	1	0

Source: Ministry of Internal Affairs.

**Table 3**

**Number of definitively sentenced persons in 1999-2000**

Criminal Code	1999	2000
Article 61 <sup>1</sup>	3	2
Article 72	0	2
Article 72 <sup>1</sup>	0	0

Source: Ministry of Justice.

**(b) Prohibition of organizations and organized propaganda activities which promote and incite racial discrimination**

**(i) Prohibition of propaganda activities**

91. Incitement of racism by the media is prohibited by the Advertising Act, which places restrictions on offensive advertising. This Act prohibits advertisements that are contrary to good morals and customs, call on people to act unlawfully or to violate prevailing standards of decency, or if they depict such activities.

An advertisement is considered offensive in particular if it:

- (i) Presents, incites or endorses discrimination on the grounds of nationality, race, colour, sex, age, language, origin, religion, political or other opinion, and financial or social status or other circumstances;
- (ii) Calls on people to behave violently or incites violent behaviour in order to achieve an objective or in the choice of the manner in which to achieve an objective;
- (iii) Degrades lawful behaviour or directly or indirectly justifies violation of the law as a means of achieving an objective;
- (iv) Plays on superstition, fear or sympathy;
- (v) Contains any direct statement or visual presentation regarding a sexual act, inappropriate nudity or socially unacceptable sexual behaviour; or
- (vi) Presents false information concerning other persons, their products or services, or other facts.

92. The activities of the press are supervised by the Press Council. It is a self-regulating body for the press that operates in two main fields: protection of freedom of speech against any restricting attacks and public complaints against the press. Self-regulation means that the press supervises and disciplines itself, without waiting for interference from outside (State power, the

courts). This is essential from the point of view of increasing the responsibility of the media that goes with freedom of expression, an open society and, most importantly, a well-informed public. The Estonian Press Council is described in more detail under article 7 in this report.

93. The holding of public gatherings and public meetings is regulated by the Public Assemblies Act. According to the Act, a public meeting may be organized by a natural person, a legal person or an association that is not a legal person.

94. At least seven days prior to holding a public meeting, the organizer has to submit notification thereof:

- (i) To rural municipality or city government on whose administrative territory the meeting is to take place;
- (ii) To the county government if the meeting is to be held on the administrative territory of several rural municipalities or cities of this county;
- (iii) To the Government of the Republic if the public meeting is to be held on the administrative territory of several counties.

95. If the meeting incites national, racial, religious or political hatred, violence or discrimination between social strata or in any other way contravenes the law, the Minister of Internal Affairs or the local police prefect may, on the basis of his or her justified decision, prohibit the holding of the meeting, so informing the organizer within three days of registration of the notification. Prohibition by the Minister of Internal Affairs or a police prefect of the holding of a meeting can be challenged in the administrative court.

96. Holding of public meetings has been described in more detail under article 5 (ix) below.

97. Criminal or administrative charges may be brought against the organizers for holding an unlawful meeting. Pursuant to article 76<sup>1</sup> of the Criminal Code, it is a punishable offence to hold a public meeting for which the notification required by the Public Assemblies Act was not submitted or if the notification was not registered or if holding the meeting was banned. The punishment is either a fine or up to three years' imprisonment. Obstructing the holding of a legal public meeting or dispersing such a meeting by use of violence or threat of violence is punishable with a fine, detention or up to two years' imprisonment (art. 76<sup>2</sup>).

98. Pursuant to article 142 of the Code of Administrative Offences, violation of the rules of public order is punishable by a fine of up to 55 units. Holding a public meeting by ignoring the requirements of the Public Assemblies Act is punishable by a fine of up to 150 units or an administrative detention of up to 10 days (art. 155). For a call to participate in a prohibited public meeting, the administrative court may impose a fine of up to 50 units or administrative detention of up to 10 days (art. 155<sup>1</sup>).



(ii) **Prohibition of organizations which promote or incite racial discrimination**

99. According to article 40 of the Non-profit Associations Act, a non-profit association may be dissolved by a court judgement at the request of the Minister of Internal Affairs or another interested person if:

- (i) The objectives or activities of the non-profit association are contrary to the law, the constitutional order or good morals;
- (ii) The activities of the non-profit association do not comply with the objectives in the articles of association;
- (iii) Economic activity becomes the main activity of the non-profit association;
- (iv) The management board does not submit a petition for dissolution provided for by the law;
- (v) In other cases provided for by the law.

100. The Criminal Code and the new Penal Code also regulate the dissolution of criminal associations and punishment for membership in such associations.

101. **Criminal Code, article 196<sup>1</sup>. Membership in or forming of a criminal organization or recruiting of members thereto or leading such organization or part thereof:**

- (1) Membership in a criminal organization, i.e. a permanent organization consisting of three or more persons who share a distribution of tasks and whose aim is or whose activities are directed at the commission of criminal offences in the first or second degree, is punishable by three to eight years' imprisonment;
- (2) Forming an organization specified in subsection (1) of this section, recruiting of members thereto or leading such organization or a part thereof is punishable by 5 to 10 years' imprisonment;
- (3) A member of a criminal organization who did not participate in the preparation, attempt or commission of any of the criminal offences committed by such organization shall be exempt from punishment if he or she voluntarily notifies his or her membership in such organization.

102. **Criminal Code, article 201<sup>1</sup>. Violation of public order or attacks against a person or his or her rights in the exercise of one's religion:**

- (1) Forming or leading a grouping whose activities in the course of the proclamation of religious doctrine or of a religious ceremony are related to violation of public order, damaging the health of persons or other attacks on the life or rights of persons, or inducing a person to refuse to perform his or her civil duties, is punishable by a fine or detention or up to five years' imprisonment;

(2) Active participation in the activities of a grouping specified in subsection (1) of this section, or promoting the commission of acts prescribed by the religious doctrines or ceremonies of such a grouping, is punishable by a fine or detention or up to three years' imprisonment.

103. **New Penal Code, article 235. Association against the constitutional order of the Republic of Estonia:**

(1) Membership of a permanent association consisting of three or more persons who share a distribution of tasks, which is created with the aim of carrying out activities directed against the independence and sovereignty of the Republic of Estonia, and forming, leading or recruiting members to such association is punishable by up to six years' imprisonment;

(2) The act specified in subsection (1) of this section if it is committed by a legal person is punishable by a fine or compulsory liquidation.

104. **New Penal Code, article 255. Criminal association:**

(1) Membership in a permanent association consisting of three or more persons who share a distribution of tasks and whose activities are directed at the commission of criminal offences in the first degree or at exerting illegal influence on authorities is punishable by 3 to 12 years' imprisonment.

(2) For the offence specified in this section, the court may impose an additional fine to the extent of assets.

105. **New Penal Code Article 256. Formation of criminal association:**

(1) Forming, leading or recruiting members to a criminal association is punishable by 5 to 15 years' imprisonment.

(2) For the offence specified in this section, the court may impose an additional fine to the extent of assets in accordance with law.

(c) **Prohibition of the promotion of or incitement to racial discrimination by national or local public authorities or public institutions.**

106. The Constitution and articles of the Criminal Code that make racial discrimination punishable are of general character and are applicable to everybody.

107. The Public Service Act regulates employment relationships in institutions performing legislative, executive or judicial functions or exercising State supervision and control or executing national defence. The Act establishes the conditions and procedure for employment in public service. For violation of service duties, officials are liable pursuant to the Employees Disciplinary Punishments Act and procedure established by other laws.

108. In addition to the perpetrator of crimes against humanity set out in the Criminal Code, the representative of the authority with whose consent the crime was committed is also held liable. The representative of authority is liable as an accomplice to the crime.

109. In the chapter of the Criminal Code on official misconduct, the following crimes have been criminalized:

**Article 161. Misuse of official position:**

Intentional misuse by an official of his or her official position, if it significantly violates the rights or interests of a person, enterprise, agency or organization which are protected by law or if it violates national interests, is punishable by a fine or up to three years' imprisonment.

**Article 161<sup>1</sup>. Abuse of authority:**

An official who illegally uses a weapon or violence or commits torturous or insulting acts against a victim while performing official duties shall be punished by up to six years' imprisonment.

110. The State Liability Act provides for the protection and restoration of rights that have been violated in the course of the implementation of powers by a public authority and in the exercise of other public functions, and provides the basis and procedure for the compensation of damage caused (State liability). The State Liability Act is described in more detail in the general part of this report.

**Article 5**

**(a) The right to equal treatment before the tribunals and all other organs administering justice**

111. Article 15 of the Constitution states that everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before a court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional. The courts shall observe the Constitution and shall declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided by the Constitution or which is otherwise in conflict with the Constitution. Article 146 of the Constitution stipulates that justice shall be administered solely by the courts.

112. Article 3 of the Courts Act states that the function of a court is to protect the rights and freedoms of every person in compliance with the Constitution and Acts of the Republic of Estonia. Every citizen has the right to judicial protection in cases of violations against life, health, personal freedoms, property, honour and dignity, and violations of other rights and freedoms ensured by the Constitution. Justice is administered on the principle that all citizens are equal before the law and the court. Citizens of foreign States and stateless persons have the

right to judicial protection in the territory of the Republic of Estonia equal to the right to judicial protection of Estonian citizens unless otherwise provided by international agreements entered into by the Republic of Estonia.

113. Pursuant to article 15 of the Legal Chancellor Act, everyone has the right of recourse to the Legal Chancellor to review the conformity of an act or other legislation of general application with the Constitution or the law.

114. Pursuant to article 13 of the Code of Criminal Procedure, justice in criminal matters is administered in accordance with the principle of equality of persons before the courts regardless of their origin, social status, financial situation, race, nationality, gender, education and other circumstances.

115. Pursuant to article 6 of the Code of Civil Court Procedure, all persons are equal before the law and the court in the administration of justice in civil matters.

116. Article 7 of the Administrative Court Procedure Act stipulates that a person who finds that his or her rights have been violated or his or her freedoms have been restricted by an administrative act or measure has the right to file an action with an administrative court. An action for the establishment of the existence or absence of a public law relationship or the unlawfulness of an administrative act or measure may be filed by a person who has legitimate interest in the matter.

**(b) The right to security of person and protection by the State against violence or bodily harm**

117. The basic provisions relating to the right to security of person and protection by the State are to be found in chapter II of the Constitution.

118. Pursuant to article 13 of the Constitution, everyone has the right to the protection of the State and of the law. The Estonian State shall also protect its citizens abroad. The law shall protect everyone from the arbitrary exercise of state authority. Everyone has the right to life. This right is protected by law. No one shall be arbitrarily deprived of his or her life.

119. Article 17 of the Constitution establishes that no one's honour or good name shall be defamed. No one shall be subjected to torture or to cruel or degrading treatment or punishment. No one shall be subjected to medical or scientific experiments against his or her free will.

120. The Criminal Code sets out activities that entail criminal liability and stipulates punishments and other sanctions that can be applied in respect of persons who have committed offences.

121. The Criminal Code stipulates, in the Chapter on offences against persons, punishments for killings (art. 100), acts of violence against the person (art. 113) and torture (art. 114).

122. The chapter on offences against the administration of justice establishes liability for forcing a person to testify (art. 171), as well as liability for violence against a witness, victim, complainant or defendant in civil proceedings, expert, specialist, interpreter or translator, impartial observer in investigative activities, offender, or persons close to them, or for threatening the above persons. There is a separate section on the torture of persons who are in custody in penal institutions or the application of illegal measures of control with respect to them (art. 176<sup>4</sup>).

123. The functions of criminal procedure are to detect criminal offences speedily and fully, ascertain offenders and ensure correct application of the law, so that everyone who has committed a criminal offence is justly punished and no innocent person is charged with a criminal offence or is convicted.

124. Pursuant to article 90 of the Code of Criminal Procedure, the reasons and grounds for commencement of criminal proceedings are:

- (i) Appearance for voluntary confession;
- (ii) Petitions by persons;
- (iii) Notices by enterprises, agencies, officials and non-profit organizations and working collectives;
- (iv) Information published in the press;
- (v) Detection of the elements of a criminal offence by a preliminary investigator, a court or a judge.

125. Preparation of a crime and attempted crime are also punishable by a criminal sentence. Preparation of a crime means acquiring an instrument or a tool to commit a crime or in any other way intentionally creating conditions for it. An attempted crime is an intentional act that is directly directed at the commission of a crime, if the crime was not completed because of a reason beyond the control of the offender. Punishment for preparation of a crime and attempted crime is imposed on the basis of the relevant provisions of the Code that establish liability for the respective crimes. When imposing a punishment, the court will take into account the offender's personality, the severity and type of crime, the degree to which the criminal intentions were realized and the reasons interrupting the completion of the crime.

126. Participation in a crime means intentional common participation by two or more persons in the commission of a crime. Participants in a crime, besides the perpetrator, are the organizer, instigator and accomplice. The perpetrator is the person who directly committed the crime. The organizer is the person who organized or led the commission of the crime. The instigator is the person who incited to commit the crime. The accomplice is the person who assisted in the commission of the crime with advice, guidance, provision of an instrument or a tool, removal of an obstacle or created a favourable situation in any other way, as well as a person who previously promised to conceal the offender, the instrument or tool used in committing the

crime, traces of the crime or the object obtained through the crime. When imposing a punishment, the court will have to take into consideration the degree and nature of each person's participation in the commission of the crime.

127. In accordance with article 38 of the Criminal Code, the following conditions may constitute an aggravating circumstance in imposing a punishment: commission of a crime with use of exceptional cruelty or taunting of a victim, or commission of a crime by a group of persons or against a child, a person of advanced age, a person in a helpless condition, an insane person or person of unsound mind, or making use of a person's subordinate position or other dependence on the offender; incitement to commit a crime or inducement to participate in a crime of a minor or a person with limited ability to understand or direct his or her actions, or making use of a person who is not subject to criminal liability in the commission of a crime.

128. Estonia has acceded to the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and other international conventions prohibiting torture and degrading treatment.

**(c) The right to participate in elections**

129. Article 56 of the Constitution stipulates that the supreme power of the State shall be exercised by the people through citizens with the right to vote:

- (i) By electing the Riigikogu;
- (ii) Through a referendum.

An Estonian citizen who has attained 18 years of age has the right to vote. An Estonian citizen who has been divested of his or her legal capacity by a court does not have the right to vote (art. 57). Participation in voting may be restricted by law for Estonian citizens who have been convicted by a court and are serving sentences in penal institutions (art. 58).

130. The Referendum Act provides the procedure for submission of a bill or other national issue to a referendum and referendum procedure. An Estonian citizen who has attained 18 years of age by the date of referendum may participate in a referendum.

131. Pursuant to the Riigikogu Election Act, members of the Riigikogu are elected in free elections on the basis of a general, uniform and direct right to vote, by secret ballot. An Estonian citizen with the right to vote who has attained 18 years of age by election day has the right to vote. An Estonian citizen with the right to vote who has attained 21 years of age by election day and whose oral and written knowledge of Estonian enable him or her to participate in the work of the Riigikogu may run as a candidate for membership of the Riigikogu.

132. In September 2001, members of the Parliament initiated a bill to eliminate the language requirement from the Riigikogu Election Act and the Local Government Council Election Act. The proposal for the bill derives from the premise that there is no practical need for such a provision. Integration in society is the best guarantee for achieving the necessary language proficiency. Excluding the provision from the Act would also be in conformity with article 25 of the International Covenant on Civil and Political Rights, in accordance with which every voter must have the right to decide who of the Estonian citizens running for the Riigikogu or a local council best represents his or her interests in the relevant representative body, regardless of the language knowledge of the candidate.

133. In accordance with article 3 of the Language Act, the language of public administration in the Riigikogu and local governments, as well as in all State agencies, is Estonian. The working language of the Riigikogu is regulated by the Riigikogu Rules of Procedure Act. In addition to the Language Act, the Local Government Organization Act also regulates the use of language in local government bodies. Article 41 of the Act stipulates that the working language of local government bodies is Estonian. The use of foreign languages, including the use of languages of national minorities in local governments is also established by the Language Act. The Parliament adopted amendments to eliminate the language requirement from the Riigikogu Election Act and the Local Government Council Election Act on 21 November 2001.

134. Estonia is one of the few countries in the world where non-citizens, regardless of their origin, are entitled to vote in local government elections.

135. Pursuant to the Local Government Council Election Act, an Estonian citizen has the right to vote:

- (i) If he or she has attained 18 years of age by election day;
- (ii) If he or she resides permanently in the territory of the local government;
- (iii) If he or she has not been divested of his or her active legal capacity by a court.

136. An alien has the right to vote in local government council elections:

- (i) If he or she has attained 18 years of age by election day;
- (ii) If he or she resides permanently in the territory of the local government;
- (iii) If he or she resides in Estonia on the basis of a permanent residence permit;
- (iv) If he or she has resided legally in the territory of the corresponding local government for at least five years by 1 January of the election year;
- (v) If he or she has not been divested of his or her active legal capacity by a court.

137. Pursuant to the Act, an Estonian citizen may run as a candidate:

- (i) If he or she has attained 18 years of age by election day;
- (ii) If he or she is entered in the national register established for the registration of electors in the rural municipality or city on 1 August of the election year at the latest;
- (iii) If his or her oral and written knowledge of Estonian enables him or her to participate in the work of the council;
- (iv) If he or she has not been divested of his or her active legal capacity by a court.

138. The last Parliamentary elections were held in March 1999. The number of citizens eligible to vote was 857,270. The election turnout was 57.4 per cent with a total of 484,239 citizens casting their vote.

139. The last elections to local government councils were held in October 1999. A total of 1,058,818 people were included in the polling lists, 194,525 of whom were resident foreigners. Overall voter turnout was 49.4 per cent: 50.9 per cent of citizens and 49.4 per cent of foreigners exercised their right to vote.

140. In the capital, Tallinn, two electoral lists composed largely of Russian-speaking politicians are represented in the city council, one of them being part of the ruling coalition and thus also the city government. One of the vice-chairmen of the city council comes from this list and two out of eight districts of the city are governed by non-Estonians.

141. It is a criminal offence to obstruct a person's exercise of the right to vote. The Criminal Code in the chapter on offences against a person's political and employment rights establishes punishments for obstructing a person's exercise of his or her right to vote or to be elected, as well as punishments for falsifying the election or voting document or results or for violating the secrecy of voting as follows:

**Article 131. Preventing the exercise of the right to vote:**

Preventing a voter with violence, deceit or threat or in any other way from freely exercising his or her right to vote or to be elected President of the Republic, member of the Riigikogu or member of a local government council, or from voting in a referendum held in accordance with the laws of the Republic of Estonia or from campaigning prior to elections or a referendum, as well as buying a voter's vote, is punishable by a fine or up to one year's detention.



**Article 132. Falsifying an election or voting document or results or violating the secrecy of voting:**

Falsifying an election document or voting document or results, knowingly miscalculating the votes or violating the secrecy of voting in elections for the President of the Republic, the Riigikogu or a local government council or in a referendum held in accordance with the laws of the Republic of Estonia is punishable by a fine or deprivation of the right to hold certain office or engage in certain activities or up to one year's imprisonment.

**Article 132<sup>1</sup>. Disseminating a lie or other fiction dishonouring the President of the Republic, a member of the Riigikogu or candidate for membership of a local government council, or degrading his or her honour and dignity:**

Knowingly disseminating a lie or other fiction dishonouring the President of the Republic, a member of the Riigikogu or candidate for membership of a local government council, or degrading their honour and dignity in any way is punishable by a fine or detention.

142. The Code of Administrative Offences establishes punishment for agitation at a rally, meeting or picket, or for publishing agitation material in the mass media, or using other active or passive means of agitation with the aim of affecting election results on the day of elections for the President of the Republic, the Riigikogu or a local government council or on the day of a referendum.

143. According to the Code of Administrative Offences, failure to present data or materials for the organization of an election, as well as failure to comply with the decision of the election committee or violation of other provisions of the Acts for the election of the President of the Republic, the Riigikogu or a local government council is punishable by a fine of up to 20 fine units.

**(d) Other civil rights**

**(i) The right to freedom of movement and residence within the borders of the State**

144. Pursuant to article 34 of the Constitution, everyone who is legally in Estonia has the right to freedom of movement and to choice of residence. The right to freedom of movement may be restricted in the cases and pursuant to procedure provided by law to protect the rights and freedoms of others, in the interests of national defence, in the case of a natural disaster or a catastrophe, to prevent the spread of an infectious disease, to protect the natural environment, to prevent the leaving of a minor or a person of unsound mind without supervision, or to ensure the administration of a criminal procedure.

145. The Wartime National Defence Act stipulates that in the time of war rights and freedoms of people may be restricted and obligations imposed on them in the cases and in accordance with procedure established by law and in the interests of public order. However, also in the time of war:

- (i) It is the duty of the legislative, executive and judicial power and local governments to guarantee rights and freedoms;
- (ii) In the case of violation of a person's rights and freedoms he or she can have recourse to a court. Nobody may be deemed guilty of an offence before a convicting judgement has entered into force with regard to him or her.

146. In the interests of national security and public order, certain rights of people may be restricted, including the right to move freely and choose one's residence. Restrictions of these rights may be established by the Government of the Republic or in certain cases also by the Commander of the armed forces (Wartime National Defence Act, art. 5).

147. The Aliens Act regulates the arrival, presence, residence and work of foreigners in Estonia and the basis for legal liability of foreigners. The Obligation to Leave and Prohibition of Entry Act regulates the basis and procedure of the obligation of foreigners to leave and the prohibition on their entering Estonia.

148. The Citizenship and Migration Board issues an order to leave Estonia to foreigners who have no legal basis to stay in Estonia during a term specified in the order. Before issuing the order a foreigner has the right to an oral hearing with an official and to submit objections and applications. A representative of the foreigner has the right to participate at the hearing and the issuing of the order. The foreigner confirms with a signature the receipt of the order, which is issued in writing. Upon the issuing of the order, the foreigner is explained his right to appeal and the consequences of failure to comply with the order. The content of the order is explained to the foreigner in a language that he or she understands. When an order is issued against a minor who is in Estonia without a parent, guardian or other representative, the person's departure from Estonia is organized by a guardianship institution in coordination with the competent authorities of the admitting State.

149. A foreigner is expelled from Estonia if he or she does not comply with the order. The decision of expulsion is made by an administrative judge on the request of the Citizenship and Migration Board pursuant to the procedure provided in the Code of Administrative Offences. The court judgement on expulsion can be appealed. When deciding expulsion the court takes into account the following circumstances (article 14 (2) of the Obligation to Leave and Prohibition on Entry Act):

- (i) The duration of the alien's legal stay in Estonia;
- (ii) Personal, economic and other ties which the alien has with Estonia and which merit protection;

- (iii) The consequences of the expulsion of the alien for the family members of the alien;
- (iv) The circumstances which are the basis for expulsion;
- (v) The age and state of health of the alien;
- (vi) The possibility of enforcing the expulsion;
- (vii) Other relevant considerations.

150. An alien may not be expelled to a State where the expulsion may result in his or her torture, inhuman or degrading punishment or treatment, or death or persecution for racial, religious, social or political reasons (art. 17 (2)).

151. Article 21 of the Refugees Act stipulates that the Republic of Estonia will not expel or return an applicant or refugee to a State where his or her life or freedom would be threatened on account of his or her race, nationality, religion, membership of a particular social group or political opinion.

### **Refugees**

152. On 1 September 1999, Government of the Republic regulation No. 250 of 18 August 1999 on the designation of government agencies involved in issues arising from the Refugees Act entered into force.

153. In September 1999, Government of the Republic regulation No. 238 of 9 August 1999 on the implementation of the Refugees Act entered into force, approving the following:

- (i) The procedure for the initial interview and the conditions and the procedure for the thorough interview;
- (ii) The form of the application for asylum;
- (iii) The form of the minutes of the initial interview;
- (iv) The form of the minutes of the thorough interview with an asylum applicant;
- (v) The form of the minutes of an additional interview with an asylum applicant; the procedure for the issue, exchange, revocation and declaration of invalidity of the certificate of an asylum applicant;
- (vi) The form of the certificate of an asylum applicant.

154. Government of the Republic regulation No. 263 of 31 August 1999 approved the procedure for the expedited processing of an asylum application.

155. The National Register of Refugees was established by the adoption of the Government of the Republic regulation No. 309 of 14 October 1999.

156. The Government regulation "Approving the procedure for and terms of the issue, replacement and revocation of travel documents of a refugee; the list of documents and data to be submitted upon application for the issue and replacement of a refugee's travel document" was adopted on 6 June 2000.

157. In order to guarantee the availability of relevant interpretation services in asylum procedures Estonia, Latvia and Lithuania signed a trilateral cooperation agreement on the exchange of interpreters on 17 March 2000.

158. On 13 April 2000, the Minister of Internal Affairs formed a special working group for coordination of activities between the authorities dealing with asylum applicants.

159. In 1999, the Phare horizontal programme on asylum was started, focusing on analysis of Estonian legislation as well as the European Union acquis concerning asylum policy. The programme was carried out in cooperation with the European Union.

160. In April 2000, the staff of the Reception Centre participated in special training for social workers organized by the Finnish Ministry of Labour. In March 2000, a workshop focusing on counselling, support and integration of asylum-seekers and refugees within the Phare horizontal programme was organized for the same officials.

161. In May 2000, asylum-seekers who had lived in the temporary reception centre at a residential home were transferred to the specialized Illuka Reception Centre for Asylum-seekers. The first phase of the construction of the Illuka Reception Centre for Asylum-seekers was completed and the Centre was opened on 18 April 2000. The capacity of the first block of the Centre is 39 asylum-seekers, with a maximum of 42. There are five employees, including one social worker. The current number of staff is sufficient considering the present status of the Centre. By the end of 2001, the second phase of the construction will be completed and seven more persons will be employed.

162. Up to now, four asylum-seekers have been granted refugee status. For three of them a receiving local government has been found.

163. Officials of the Citizenship and Migration Board have received training on asylum issues at several institutions. Various training programmes have been organized by the Phare horizontal programme on asylum, IOM, UNHCR and the Jaan Tõnisson Institute.

164. In order to improve its administrative capacity, Estonia has published in cooperation with UNHCR booklets in several languages specifying the terms for application for asylum and the rights and duties of asylum applicants.

165. From January 1999 to December 2000, the European Union Phare justice and home affairs horizontal programme on refugees was carried out for 10 Central and Eastern European candidate countries, including Estonia. During the programme, several action plans were drawn

up, and at the final conference a consolidating plan entitled “Future report for the Republic of Estonia” was approved. Legislative amendments arising from this action plan are intended to be realized through the adoption of the Act for the Amendment of the Aliens Act and Refugees Act, which is currently pending before the Parliament.

166. In January 2001, a non-profit association, Estonian Refugee Assistance, was founded that deals with counselling of asylum applicants and refugees.

### **Restrictions in criminal proceedings**

167. Bases for the deprivation of liberty of persons are stipulated in article 20 of the Constitution, according to which a person may be deprived of his or her liberty only in the cases and pursuant to procedure provided by law:

- (i) To execute a conviction or detention ordered by a court;
- (ii) In the case of non-compliance with a direction of the court or to ensure the fulfilment of a duty provided by law;
- (iii) To combat a criminal or administrative offence, to bring a person who is reasonably suspected of such an offence before a competent State authority, or to prevent his or her escape;
- (iv) To place a minor under disciplinary supervision or to bring him or her before a competent State authority to determine whether to impose such supervision;
- (v) To detain a person suffering from an infectious disease, a person of unsound mind, an alcoholic or a drug addict, if such person is dangerous to himself or herself or to others;
- (vi) To prevent illegal settlement in Estonia and to expel a person from Estonia or to extradite a person to a foreign State.

168. According to the Code of Criminal Procedure, no person may be charged with a criminal offence, except on the bases and pursuant to the procedure prescribed by law. Everyone who is deprived of liberty on the basis of this Code will be immediately notified in a language and manner which he or she understands of the reason for the deprivation of his or her liberty, and of his or her rights. A person is given an opportunity to notify, at his or her choice, at least one person close to him or her of his or her detention, through a preliminary investigator, prosecutor or the court, if such notification does not damage the criminal proceedings. A person suspected of a criminal offence is promptly also given an opportunity to choose a criminal defence counsel for himself or herself and to confer with the counsel.

169. The Code of Criminal Procedure establishes that no one will be held in custody for more than 48 hours without the permission of a court to this effect. The person held in custody shall be immediately notified of the decision of the court in a language and manner which he or she

understands. A prosecutor is required to immediately release anyone who has been wrongfully deprived of his or her liberty, or who is held in custody longer than the term prescribed by the law or a court judgement.

170. If there is sufficient reason to believe that an accused person or a person on trial who is at large absconds from investigation or court proceedings, impedes the establishment of the truth in a criminal matter or continues to commit criminal offences, or in order to ensure the enforcement of a court judgement, one of the following preventive measures may be applied with regard to him or her:

- (i) Signed undertaking not to leave place of residence;
- (ii) Personal surety;
- (iii) Taking into custody;
- (iv) Security (bail).

171. Signed undertaking not to leave place of residence means that a suspect, accused person or person on trial signs a written obligation not to leave his or her permanent or temporary residence without the permission of the preliminary investigator, prosecutor or court.

172. Personal surety is a written commitment by a reliable person to ensure the appearance of a suspect, accused person or person on trial when summoned by a preliminary investigator or court.

173. On the application of the suspect, accused person or person on trial, the court may substitute “taking into custody” as a preventive measure with a “security”.

174. Detention as a restraint may be used with regard to a suspect, accused person or person on trial in order to prevent him or her absconding from criminal proceedings or committing a new offence, or to ensure the enforcement of a court judgement. Detention during the investigation of a criminal case may not last longer than six months. If the criminal case is particularly complicated or extensive, in exceptional cases the Chief Public Prosecutor or senior county or city prosecutor may request that the term of detention be extended up to one year.

175. In addition to the application of such preventive measures, a minor may be placed under the supervision of his or her parents, guardians or curators, or the administration of an educational, childcare or medical institution. With regard to a member of the armed forces, supervision by the command staff of a military unit may also be applied as a preventive measure. Supervision by the command staff of a military unit with regard to a member of the armed forces who is a suspect, accused on trial means the use of prescribed measures in order to guarantee the appropriate behaviour of the person and his or her appearance at the request of the preliminary investigator, prosecutor or court.

176. If the application of a preventive measure is not necessary, a signature will be obtained from the accused person or person on trial concerning his or her obligation to appear for investigation or before the court, and to notify a change in his or her residence.

177. In the choice of preventive measure, the seriousness of the criminal offence committed, the personality of the suspect, accused person or person on trial, the possibility that he or she may abscond from investigation or the court proceedings or may impede the establishment of the truth, and the state of health, age, marital status and other facts concerning him or her which may be relevant in the application of a preventive measure will be taken into account.

178. A preventive measure will be applied only with regard to a person against whom charges have been brought. In exceptional cases, a preventive measure may be applied to a person who is suspected of the commission of a criminal offence prior to the bringing of charges or the prosecution of a suspect pursuant to expedited procedure. In such case, charges will be brought or the suspect will be prosecuted pursuant to expedited procedure not later than within 10 days of the application of the preventive measure.

179. Compulsory attendance may be applied on the basis of an order of a preliminary investigator or a ruling of a court with regard to a victim, plaintiff, defendant, or the representative of a victim, plaintiff or defendant, or with regard to a suspect, accused person, witness, expert, specialist, interpreter, translator or impartial observer of investigative activities, if he or she was required to appear before a preliminary investigator or court, and a warning of a fine was given to him or her, and he or she failed to appear before the preliminary investigator or the court without a reasonable impediment. A person subject to compulsory attendance who is staying in the same district as the preliminary investigator or court may be detained for up to 18 hours prior to the commencement of an investigative activity or a court session. In respect to the compulsory attendance of a person who is staying in another district, the term of detention may not exceed 48 hours. Compulsory attendance is effected by the police.

180. In accordance with the Criminal Code, courts may impose imprisonment and detention as a punishment. Imprisonment may be for a term of from three months to 15 years or life imprisonment. By adding up periods of imprisonment, the court may impose as a final punishment a period of imprisonment of up to 30 years. The period of imprisonment imposed on a person who at the time of the commission of an offence was younger than 18 years may not exceed eight years. The term of detention imposed as a punishment may be up to three months. Detention imposed on a minor may be for a cumulative period of up to one month during the time free from studies and work.

181. If the court, considering the facts relating to the commission of an offence and the personality of the offender, finds that serving of the imposed period of imprisonment by the convicted person is not purposeful the court may rule that the imprisonment will conditionally not be applied to the convicted offender. In such case, the court will place the convicted offender under the supervision of a criminal probation supervisor for a probationary period.

The period of probation may be from one to three years. The convicted offender under the supervision of the probation supervisor has to observe the following requirements:

- (i) Appear periodically for registration at the time and place specified by the probation supervisor;
  - (ii) Present to the probation supervisor documents concerning the fulfilment of obligations imposed on him or her by the court;
  - (iii) Live in a specified location;
  - (iv) Apply for the permission of the criminal probation supervisor in order to leave the place of residence for longer than 15 days;
  - (v) Apply for the permission of the criminal probation supervisor in order to change the place of residence, work or study.
- (ii) The right to leave any country, including one's own, and to return to one's country**

182. Article 35 of the Constitution establishes that everyone has the right to leave Estonia. This right may be restricted in the cases and pursuant to procedure provided by law to ensure the administration of court or pre-trial procedure, or to execute a court judgement.

183. No Estonian citizen may be expelled from Estonia or prevented from settling in Estonia. No Estonian citizen may be extradited to a foreign State, except under conditions prescribed by an international treaty and pursuant to procedure provided by such treaty and by law. Extradition is decided by the Government of the Republic. Everyone who is under an extradition order has the right to contest the extradition in an Estonian court. Every Estonian has the right to settle in Estonia.

184. The entry of aliens into Estonia, their stay, residence and employment in Estonia and the bases for legal liability of aliens are regulated by the Aliens Act. A legal basis must exist for an alien to enter Estonia or stay in Estonia. An alien has to hold a work permit to work in Estonia. A residence permit is not issued to or extended for an alien who has incited or incites, or concerning whom there is good reason to believe that he or she has incited or incites national, racial, religious or political hatred or violence.

185. The legal bases for an alien to stay in Estonia are:

- (i) A residence permit;
- (ii) A visa for the period of time indicated for the stay in Estonia;
- (iii) The right to stay in Estonia arising from an international agreement;



- (iv) The right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;
- (v) Other permission arising from law, or permission granted by administrative legislation on the basis of law for the alien to stay in Estonia.

186. The Aliens Act establishes the annual immigration quota, i.e. the maximum number of aliens who may immigrate to Estonia, which cannot exceed 0.05 per cent of the permanent population of Estonia annually. The immigration quota is established by the Government of the Republic taking into account the proposals of local governments. The Minister of Internal Affairs may, by a ruling, establish a distribution of the annual immigration quota according to the grounds for application for a residence permit and the basis for issuing the permit. Persons who have the right to settle in Estonia outside of the immigration quota or to whom the immigration quota does not apply are not included in calculating the fulfilment of the immigration quota. Every Estonian has the right to settle in Estonia outside of the immigration quota.

187. The immigration quota does not include the following:

- (i) The immigration quota does not apply to citizens of the European Union, the United States of America, Norway, Iceland, Switzerland and Japan.
- (ii) The Minister of Internal Affairs may, on a reasoned proposal of the Minister of Economic Affairs, the Minister of Finance, the Minister of Culture or the Minister of Education, exempt specific persons from the immigration quota if their arrival in Estonia is necessary in the national interests for economic, educational, scientific or cultural development.

188. Since the submission of the previous report, there have been certain developments both in legislation and administrative practice. In April 2000, the Aliens Act was amended and the scope of persons exempted from the immigration quota was extended. In accordance with the amendments, the immigration quota does not apply to:

- (i) The spouse of an Estonian citizen who applies for a residence permit if the spouses have a common child under 15 years of age or if the woman is more than 12 weeks pregnant;
- (ii) A child under 15 of an Estonian citizen for whom a residence permit has been applied.

189. In certain cases, domestic courts have interpreted the imposition of the immigration quota as unconstitutional. For example, the Supreme Court decision of 12 June 2000 (No. 3-3-1-15-00) in Svetlana Kopylova's appeal concerning application of the immigration quota and the Supreme Court decision of 18 May 2000 (No. 3-3-1-11-00) concerning Valentina Ushakova's administrative case. The Citizenship and Migration Board refused to grant a residence permit to Valentina Ushakova and her minor son due to the

fulfilment of the immigration quota. The Supreme Court was of the opinion that an alien's right to live in Estonia does not merely derive from the Aliens Act but also from the Constitution and the European Convention on Human Rights. If an alien has a family life in Estonia in the meaning of the Estonian Constitution and the Convention his or her right to reside legally in Estonia may also derive from the Constitution and the Convention, not only the Aliens Act.

190. Article 27 of the Constitution proves that the family has an independent value in the meaning of the Constitution. Article 27 of the Constitution has been worded as a right without the reservation of law, i.e. as an absolute right. It does not ensue from this that it is a fundamental right that cannot be restricted at all. However, in order to restrict a right that is not subject to the reservation of law, there has to be a very important reason which has to be contained in the Constitution itself, for example that, established in the preamble to the Constitution, of the Estonian State protecting internal and external peace.

191. Refusal to grant a residence permit to an alien who is leading a family life in Estonia in the meaning of the Constitution cannot be justified merely by the fulfilment of the immigration quota. This would not be in conformity with the nature of the fundamental right. As Ushakova's husband is an Estonian citizen, refusal to grant a residence permit to Ushakova may place her husband, who is an Estonian citizen, in a situation where he is forced to leave Estonia in order to lead a family life. An Estonian citizen has a subjective right to reside in Estonia. Article 36 of the Constitution says that no Estonian citizen may be expelled from Estonia or prevented from settling in Estonia. There has to be a compelling reason for refusal to grant a residence permit to the spouse of an Estonian citizen. The Supreme Court in its decision found that the fulfilment of the immigration quota was not a compelling reason for refusal and satisfied Ushakova's appeal.

192. The Obligation to Leave and Prohibition of Entry Act provides the bases and procedure for the application to aliens of the obligation to leave Estonia and the prohibition of entry into Estonia. A legal basis must exist for an alien to stay in Estonia. The Citizenship and Migration Board issues an order to leave Estonia pursuant to the procedure established by law to an alien who has no legal basis to stay in Estonia. An alien is expelled from Estonia at the date set for the enforcement of the order. Expulsion will not be applied if:

- (i) The order has been annulled or declared void or has lost validity;
- (ii) The expulsion has become impossible;
- (iii) The expulsion may result in the torture, inhuman or degrading punishment or treatment, death or persecution of the alien for racial, religious, social or political reasons.

193. A person to be expelled will be expelled to the State from which he or she arrived in Estonia, to the country of his or her nationality or to his or her country of habitual residence, or to a third State with the consent of the third State. If there is more than one option, the reasoned preference of the person to be expelled will be the primary consideration, if such preference does

not significantly impede enforcement of the expulsion. An alien may not be expelled to a State expulsion to which may result in his or her torture, inhuman or degrading punishment or treatment, death or persecution for racial, religious, social or political reasons.

194. An alien may be prohibited entry if:

- (i) There is good reason to believe that his or her stay in Estonia may endanger the security of the Republic of Estonia, or public order, public safety, moral standards or the health of other persons;
- (ii) There is information or good reason to believe that he or she belongs to a criminal organization, that he or she is connected with the illegal conveyance of narcotics, psychotropic substances or persons across the border, that he or she is a member of a terrorist organization or has committed an act of terrorism, or that he or she is involved in money laundering;
- (iii) He or she is or has been employed by an intelligence or security service of a foreign State, or there is good reason to believe that he or she is or has been employed by an intelligence or security service of a foreign State;
- (iv) He or she has received or there is good reason to believe that he or she has received special training in landing operations or in diversion or sabotage activities, or other special training, if the knowledge and skills acquired in the process of such training can be directly applied in the formation or training of illegal armed units;
- (v) He or she incites or there is good reason to believe that he or she incites racial, religious or political hatred in Estonia or a foreign State;
- (vi) He or she has been punished or there is good reason to believe that he or she has been punished for a serious crime against humanity or for a war crime, regardless of whether the criminal record has expired or been expunged, and regardless of the expungement of data concerning punishment from the punishment register;
- (vii) He or she has been punished for an intentionally committed criminal offence or for another offence in Estonia or a foreign State, and if the criminal record has neither expired nor been expunged or if data concerning the punishment have not been expunged from the punishment register;
- (viii) The alien has violated legislation regulating the stay of aliens in Estonia or the crossing of the State border by aliens.

195. Upon the enforcement of a prohibition on entry with regard to an alien who holds a residence permit, a visa or other permission to stay in Estonia granted by administrative legislation, the corresponding basis for stay will be annulled. A prohibition on entry does not deprive an alien of the right to apply for asylum in Estonia.

196. Prohibition of entry will not be applied:

- (i) With regard to an alien less than 13 years of age;
- (ii) With regard to an alien who is of Estonian origin;
- (iii) With regard to an alien whose application for asylum in Estonia has been accepted for hearing or with regard to an alien who has been granted asylum in Estonia.

197. An order imposing the obligation to apply for a residence permit pursuant to the procedure provided by law in order to legalize his or her stay in Estonia is issued to an alien who is staying in Estonia without legal basis and who:

- (i) Is leading a family life that is protected by law in Estonia;
- (ii) Is of Estonian origin;
- (iii) Settled in Estonia before 1 July 1990 and has thereafter not left to reside in another country and whose continued stay in Estonia does not damage the interests of the Estonian State.

**(iii) The right to nationality**

198. Article 2 of the Citizenship Act provides for the acquisition, resumption and loss of Estonian citizenship. Estonian citizenship is:

- (i) Acquired by birth;
- (ii) Acquired by naturalization;
- (iii) Resumed by a person who lost Estonian citizenship as a minor;
- (iv) Lost through release from or deprivation of Estonian citizenship or upon acceptance of the citizenship of another State.

199. An alien who wishes to acquire Estonian citizenship shall:

- (i) Be at least 15 years of age;
- (ii) Have stayed in Estonia on the basis of a permanent residence permit for at least five years prior to the date on which he or she submits an application for Estonian citizenship and for one year from the day following the date of registration of the application;

- (iii) Have knowledge of the Estonian language in accordance with the requirements established by the law;
- (iv) Have knowledge of the Constitution of the Republic of Estonia and the Citizenship Act in accordance with the requirements established by the law;
- (v) Have a permanent legal income which ensures his or her own subsistence and that of his or her dependants;
- (vi) Be loyal to the Estonian State;
- (vii) Take an oath: “Taotledes Eesti kodakondsust, tõotan olla ustav Eesti põhiseaduslikule korrale.” [In applying for Estonian citizenship, I swear to be loyal to the constitutional order of Estonia.]

200. Important amendments to the Citizenship Act were made in 1998, which considerably simplified the procedures for acquiring Estonian citizenship for minors.

201. Since March 1998, the Riigikogu has amended the Citizenship Act on two occasions. On 8 December 1998, the Act for the Amendment of articles 13, 15, 18, 19, 21, 23, 28, 29 and 32 and Revision of article 14<sup>1</sup> of the Citizenship Act was passed, as a result of which subsections 4 to 6 were added to article 13 of the Citizenship Act to enable a minor under 15 years of age who was born in Estonia after 26 February 1992 to acquire Estonian citizenship by naturalization if:

- (1) His or her parents apply for Estonian citizenship for him or her and if the parents have legally resided in Estonia for at least five years at the time of submission of the application and are not deemed by any other State to be citizens of that State on the basis of any Act in force;
- (2) A single or adoptive parent applies for Estonian citizenship for the minor and if the single or adoptive parent has legally resided in Estonia for at least five years at the time of submission of the application and is not deemed by any other State to be a citizen of that State on the basis of any act in force;
- (3) A minor under 15 years of age for whom Estonian citizenship is applied for in accordance with subsection (4) of this section will be staying in Estonia permanently and has not been deemed by any other State to be a citizen of that State on the basis of any act in force;
- (4) The specification provided for in subsection (4) of article 13 of the Citizenship Act concerning persons who are not deemed by any other State to be citizens of that State on the basis of any act in force also includes persons who, before 20 August 1991, were citizens of the Union of Soviet Socialist Republics and who have not been deemed by any other state to be citizens of that State on the basis of any act in force.

202. For the implementation of the above subsections, articles 14<sup>1</sup> and 15 were added to the Citizenship Act establishing the specification of a single parent raising a child who is a minor and the list of documents required for applying for citizenship for a minor. The conditions for the deprivation (art. 28) and loss (art. 29) of Estonian citizenship were also specified.

203. On 14 June 2000, the Citizenship Act was amended and special conditions for the acquisition of Estonian citizenship regarding persons with disabilities were introduced.

204. The need for the above amendments arose from the adoption of the new Social Benefits for Persons with Disabilities Act in January 1999. This Act replaced the categories of disability that were previously used to measure the degree of disability with new degrees of disability on the basis of need for care (profound, severe, moderate disability), which created a need to amend article 34 of the Citizenship Act where the term “category of disability” had been used so far.

205. In accordance with the amended Act, the provisions of the Citizenship Act that require taking an examination to test knowledge of the Estonian language and of the Constitution and of the Citizenship Act as a condition for naturalization will not be applied with respect to persons with profound or severe disability. The same exception applies with respect to applicants with moderate disability whose nature (hearing and/or visual impairment) makes them unable to comply with the requirements for examinations.

206. If people do not apply for Estonian citizenship or have not yet chosen which citizenship they wish to hold, they are still given a clear legal status in Estonia. The Estonian Constitution and legal acts, such as the Aliens Act, provide the legal status necessary for the preservation of their human rights.

207. On 24 September 1997, the Parliament adopted an amendment to the Aliens Act in accordance with which people who applied for temporary residence permits before 12 July 1995 are eligible for permanent residence permits from 12 July 1998. From July 1998, the procedure for applying for residence permits has become simpler than it was in 1993-1995. The applicant now does not have to be present when the application is being handled, and information material in Russian has been prepared to assist applicants.

208. In accordance with the amendments to the July 1997 Aliens Act that came into force on 12 July 1998, permanent residence permits may be issued to aliens who have resided in Estonia on the basis of a temporary residence permit for at least three years within the last five years and who have a residence and employment or other legal income.

209. Pursuant to article 9 of the Aliens Act, an alien must have a legal basis to enter Estonia or stay in Estonia. An alien has to hold a work permit to work in Estonia. The legal bases for an alien to stay in Estonia are:

- (i) A residence permit;
- (ii) A visa, for the period indicated for the stay in Estonia;

- (iii) The right to stay in Estonia arising from an international agreement;
- (iv) The right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;
- (v) Other permission arising from law, or permission granted by administrative legislation on the basis of law for the alien to stay in Estonia;

210. An alien who during the period of validity of his or her residence permit applies for an extension of the residence permit or for a permanent residence permit pursuant to the procedure established by the Government of the Republic is deemed to be staying in Estonia legally until a decision concerning his or her application is made.

211. A permanent residence permit may be issued to an alien who has resided in Estonia on the basis of a temporary residence permit for at least three years within the last five years and who has a valid residence permit, a residence in Estonia and legal income for subsistence in Estonia, unless otherwise provided in the Act. A permanent residence permit is also granted to a minor child of an Estonian citizen resident in Estonia or of an alien resident in Estonia on the basis of a permanent residence permit, except in the case that he or she resides in a foreign country and wishes to move to Estonia (Aliens Act, art. 12).

212. Pursuant to Government of the Republic regulation No. 219 of 30 June 2000 “Conditions for combining and review of Estonian language examinations of applicants for citizenship and the Estonian language proficiency examinations”, the assessment of the knowledge of Estonian required in article 8 of the Citizenship Act is not performed any more by the Citizenship and Migration Board but by the National Examination and Qualification Centre. Pursuant to Government of the Republic regulation No. 218 of 30 June 2000 “The procedure for examinations to test knowledge of the Estonian Constitution and of the Citizenship Act”, the examinations to test the knowledge of the Constitution and the Citizenship Act as required by article 9 of the Citizenship Act are conducted by committees formed by regional departments of the Citizenship and Migration Board.

213. The Citizenship Act includes a language requirement at a minimum conversational level. From 1993, the language requirements have been reviewed many times. Information regarding the language requirements is freely delivered by the National Examination and Qualification Centre, where everyone who wishes can take a preliminary test and have a free-of-charge consultation. A free handbook is also available to teachers, applicants and examiners.

214. The language proficiency examination tests listening comprehension, reading comprehension, writing and speaking skills. Each part is successfully completed if 60 per cent of the answers are correct. The language tests are scored on a basis of overall mutual compensation: for example, poor verbal abilities can be compensated by good performance in written exercises.

215. In 2000, the number of persons taking the language test grew significantly - a total of 11,000 people passed the test successfully. An important factor in achieving this result was the implementation of the language training project "InterEst". The reimbursement programme implemented in cooperation with the Phare programme and the Integration Foundation provided for 50 per cent coverage of language course expenses for people who successfully passed the examination. In the framework of the programme, certain categories of people were eligible for full coverage of course fees; for example, unemployed people, pensioners and disabled people, and the expenses of relatively low-income civil servants (social workers, prison officials, etc.), were also paid.

216. Applicants born before 1 January 1930 are exempted from the writing skills section. Special exemptions are also provided for candidates with disabilities (see also the subsection on citizenship). Applicants who have acquired their elementary, secondary or higher education in Estonian are exempt from the language examination. The pass rate for the language proficiency test has been consistently over 80 per cent.

217. For pupils of schools where the language of instruction is not Estonian, the examination is free owing to the combining of the final examination/State examination and the language proficiency examination.

### **State programmes**

218. One of the State institutions participating in the national integration programme is the Ministry of Internal Affairs, which cooperates and is a partner in projects with non-profit and other organizations. As an agency under the Ministry of Internal Affairs, the Citizenship and Migration Board (CMB) plays an important role in integrating non-Estonians into Estonian society because the CMB is the main State institution through which the non-Estonian speaking population arranges its relations with the Republic of Estonia. This enables the CMB to identify and analyse the problems of non-Estonian clients and their integration into Estonian society. Bearing this in mind, the CMB has an important role not only in promoting its own image but also in shaping the general attitudes and opinion of non-Estonians towards the Estonian State.

219. The CMB has close cooperation with the International Organization for Migration (IOM). On the initiative of the CMB, in July 1998 an agreement was signed with the IOM to open an integration bureau in the CMB Narva office. The aim of the project, in accordance with the national integration policy, is to support the integration of non-citizens in Ida-Viru county into Estonian society, giving them prompt and accurate information about integration conditions. Therefore, it was considered necessary to employ integration officials in regional departments of the CMB. As Ida-Viry county has the largest number of non-citizens, the Narva office of the CMB was chosen to carry out the pilot phase of the project.

220. The integration official working in the CMB bureau is competent to answer questions of non-Estonians, to provide them counselling and to solve their more complicated problems. The daily work of the integration official is to register queries made by clients. Systematization and analysis of that information is a basis for making proposals to improve the work of the CMB and to prepare information materials.



221. The objectives of the project are the following:

The service of the CMB will become more client-friendly. At the same time, the attitude of clients, in particular non-Estonians, towards the CMB and the Estonian State will improve;

Several barriers among non-Estonians, such as lack of information, fear of the citizenship examination, negative attitude, etc., will decrease and the number of non-citizens will decline;

The interest and motivation of Russian youth to become Estonian citizens will increase and their confidence in the Estonian State will strengthen;

It will be possible to compare the integration programmes and related activities in Estonia and Nordic countries. Likewise, it will be possible to compare the functions, training and organization of the work of officials.

222. Integration may be seen as a process creating a link between the individual and the State and society because there are more than 350,000 non-Estonians in Estonia who actively communicate with the CMB. The CMB has regional units in all the counties. The Ministry of Internal Affairs plans to employ integration officials in all the structural units of the CMB in whose service areas non-Estonians make up more than 10 per cent of the population.

223. In September 1999, an integration official was appointed to the Narva and Jõhvi bureau of the Citizenship and Migration Board. The integration official works as an assistant client service staff member, who gives non-Estonians information on the topics of citizenship, application for residence permits, visas, language training, integration, etc.

224. The aim of the Narva and Jõhvi bureau is to create a local communication network to help provide answers to every question. The official must be reliable, willing to help and have a computer connection with many specialists, organizations and institutions to be able to find solutions to problems.

225. The main fields of work of the integration official are:

To develop cooperation and contacts with State institutions, local governments and educational institutions;

To organize cooperation with non-profit organizations and local businesses;

To participate in integration programmes;

To inform the CMB about problems and make proposals for solving them, and to make proposals for the work of the CMB and for preparing legislation;

To counsel people about the possibilities for applying for Estonian citizenship and the possibilities for language training, the conditions for applying for a permanent residence permit, entering and leaving Estonia, the conditions for visas and visa invitations and possible changes in legislation regulating these areas;

To inform people about other developments in areas connected with integration (e.g. elections);

To inform people about the possibilities for learning Estonian and possibilities for vocational and higher education;

To inform Estonians who have returned to Estonia and their family members about issues relating to their legal status.

226. In order to analyse various problems, the CMB has created a register into which the integration official enters problems that clients have addressed to the CMB and that require more complicated analysis. By obtaining a good overview of the more complicated issues and at the same time analysing them at the integration and migration department of the CMB, it is possible to identify conflicting provisions in Estonian legislation that may hinder people's integration into Estonian society.

227. Every year on 26 November, Citizen's Day is celebrated in Estonia. Citizen's Day is oriented towards all Estonian citizens and applicants for citizenship regardless of their ethnic origin. Citizen's Day is a nationwide event, first and foremost based on local initiative, and to a large extent it is an information day. During Citizen's Day, schools can ask politicians and people active in public life (members of the Riigikogu, etc.) to come and speak on topical issues.

#### **(iv) The right to marriage and choice of spouse**

228. Pursuant to article 27 of the Constitution, the family, being fundamental to the preservation and growth of the nation and as the basis of society is protected by the State. Spouses have equal rights.

229. In accordance with the Family Act, a marriage is contracted between a man and a woman. A marriage has legal effect only if the marriage is registered at a vital statistics office upon contraction of the marriage. Prospective spouses contract marriage with both being present in person at the same time. A marriage is contracted when the marriage registration is signed by the prospective spouses.

230. A marriage is contracted on the mutual desire of the prospective spouses. A marriage may not be contracted:

- (i) Between persons of whom at least one is already married;
- (ii) Between direct ascendants and descendants, brothers and sisters, half-brothers and half-sisters, adoptive parents and adopted children, or between children adopted by the same person;
- (iii) Between persons of whom at least one is declared to be without active legal capacity.

231. Upon contraction of marriage, spouses will choose the surname of one spouse as the common surname, both spouses retain their pre-marital surnames or, at the request of a spouse, the surname of the other spouse is added to the spouse's pre-marital surname.

232. Agreements that restrict the personal rights and freedoms of spouses are void.

233. A new draft Family Act has been prepared that has a separate chapter on hindrances to the contraction of marriage, instead of one section in the present Act. Multiple marriage, marriage between relatives, marriage in the case of an adoptive relationship and marriage between a step-parent and stepchild are prohibited.

**Table 4**

**Marriages and divorces 1997-2000**

Year	Marriages	Divorces
1997	5 589	5 281
1998	5 430	4 491
1999	5 590	4 561
2000	5 485	4 230

Source: Statistical Office of Estonia.

234. The Committee on the Elimination of Racial Discrimination, in its concluding observations (CERD/C/304/Add.98), requested information on Estonian birth rates, including separate data on the majority population and on ethnic minorities.

**Table 5****Live birth by ethnic nationality of parents 1997-2000**

Mother's ethnic nationality	1997	1998	1999	2000
Mother and father of the same ethnic nationality				
Estonian	8 450	8 051	7 629	7 713
Russian	1 919	1 953	1 914	1 979
Ukrainian	44	44	37	38
Belarusian	6	9	7	9
Finnish	-	5	8	4
Jewish	1	1	1	2
Tatar	3	2	1	1
German	-	3	2	5
Latvian	-	-	-	-
Polish	-	2	1	-
Other	30	21	25	25
Total	10 453	10 091	9 625	9 776

Mother's ethnic nationality	1997	1998	1999	2000
Mother and father of different ethnic nationality				
Estonian	522	507	464	443
Russian	771	788	732	682
Ukrainian	187	165	160	171
Belarusian	109	86	78	85
Finnish	64	59	53	54
Jewish	6	11	6	10
Tatar	14	9	16	11
German	17	21	17	21
Latvian	21	15	15	17
Polish	19	18	9	12
Other	92	67	65	68
Total	1 822	1 746	1 615	1 574

Mother's ethnic nationality	1997	1998	1999	2000
Ethnic nationality unknown				
Father's ethnic nationality unknown	319	385	1 285	1 734
Mother's ethnic nationality unknown	11	7	15	5
Mother's and father's ethnic nationality unknown	21	40	5	-
Total	351	432	1 305	1 739

Source: Statistical Office of Estonia.

(v) **The right to own property alone as well as in association with others**

235. Pursuant to article 32 of the Constitution, the property of every person is inviolable and equally protected. Property may be expropriated without the consent of the owner only in the public interest, in the cases and pursuant to procedure provided by law, and for fair and immediate compensation. Everyone whose property is expropriated without his or her consent has the right of recourse to the courts and to contest the expropriation, the compensation or the amount thereof. Everyone has the right to freely possess, use and dispose of his or her property. Restrictions are provided by law. Property may not be used contrary to the public interest. The right of succession is guaranteed.

236. The law may provide classes of property which, in the public interest, may be acquired in Estonia only by Estonian citizens, some categories of legal persons, local governments or the Estonian State.

237. Pursuant to the Law of Property Act, an owner may be a natural person or a legal person(s) in private law, or the State, a local government or a legal person(s) in public law.

238. All owners have equal rights unless otherwise provided by law. The property of a legal person or a legal person itself cannot belong to other persons. The acquisition of property by legal persons, foreign States, their citizens, international organizations and stateless persons may be restricted by law in the public interest.

239. The Act for the Restriction of Transfer of Immovable Property Ownership to a Foreigner, or Foreign State or Legal Person establishes the following restrictions on the transfer of the ownership of a plot of land to a foreigner:

- (i) Ownership of a plot of land may be transferred to a foreigner with the permission of the county governor of the county where the plot is located;
- (ii) Immovable property ownership or possession may be transferred to a foreigner with the permission of the Minister for Foreign Affairs;
- (iii) Ownership of a plot of land may be transferred to a foreign legal person with the permission of the county governor of the county where the immovable property is located.

240. Acquisition of a plot of land by a foreigner is prohibited on certain islands and in certain local government units. For reasons of national importance, the Government of the Republic may grant as an exception the right to acquire a plot of land in the above areas.

241. Permission is not needed to transfer ownership of a plot of land to the transferor's spouse, direct descendants and ascendants. The following will also be exempt from the above restrictions:

- (i) Transfer of apartment ownership and ownership and possession of an apartment building lease;

- (ii) Transfer of immovable property ownership or possession of immovable property of the State or local government unit;
- (iii) Succession;
- (iv) Transfer of immovable property to joint ownership of spouses, if at least one of the spouses is an Estonian citizen;
- (v) If otherwise provided in international agreements ratified by the Riigikogu.

242. Certain restrictions on the acquisition of immovable property are also established in other laws, for example the Water Act, the Forest Act and the Protected Natural Objects Act.

243. Pursuant to the Weapons Act, the following may freely acquire, own or possess weapons and ammunition in unrestricted commerce:

- (i) An Estonian citizen who is at least 16 years of age;
- (ii) A foreign citizen or a Stateless person who is staying legally in Estonia (hereinafter “alien”) and who is at least 16 years of age;
- (iii) A legal person registered in Estonia;
- (iv) A State or local government agency (hereinafter “agency”).

244. An alien who is at least 18 years of age who is staying in Estonia on the basis of a permanent residence permit may acquire and own weapons in restricted commerce pursuant to the procedure and conditions provided by law, except a pistol classified as a firearm, a revolver and a firearm with a rifle barrel.

245. An alien who is legally staying in Estonia, who does not have a permanent residence permit and who is at least 18 years of age may acquire a weapon in restricted commerce for the purposes of taking the weapon out of Estonia, pursuant to the conditions and procedure provided by the Weapons Act:

- (i) If he or she holds a permit issued by a competent authority of the State of his or her permanent residence for the acquisition of such type of weapon; and
- (ii) If his or her application for the acquisition of a permit for a weapon is submitted by the relevant country’s diplomatic or consular representation via the Estonian Ministry of Foreign Affairs; and
- (iii) If he or she takes the weapon out of Estonia on his or her departure.

246. Since April 2000, the Young Family's Dwelling Loan Project was started in Estonia in order to assist young families in setting up their homes. Under the project, bank loans on favourable conditions are granted to young families with at least one child under 7 years of age. In order to facilitate the repayment of the loan, interest on the loan is subsidized.

247. Various micro-loans schemes have been implemented as pilot studies in the framework of projects under rural development programmes.

248. In accordance with the Government of the Republic regulation No. 132 ("Approving the procedure for the granting and repayment of student loans and establishing the preferences for the redemption of loans"), repayment of a student loan and calculation of interest on it is suspended for the time a recipient is serving in the defence forces and for mothers during parental leave, for one year after the birth of a child.

**(vi) The right to inherit**

249. Article 32 of the Constitution guarantees the right to inherit. This right is regulated in more detail in the Succession Act.

250. Any person with passive legal capacity has the capacity to inherit. The basis for inheritance is:

- (i) The law;
- (ii) The testamentary intention of the bequeather expressed in a will;
- (iii) The testamentary intention of the bequeather expressed in a testamentary contract.

251. Pursuant to the Act, a person is unworthy to inherit if the person:

- (i) Commits a criminal offence against the person of the bequeather or provisional legatee resulting in their death, except if committed in self-defence or in excess of the limits of self-defence;
- (ii) Knowingly and unlawfully places the bequeather in a situation where he or she is incapable of making or altering a testamentary provision until his or her death;
- (iii) By duress or deceit hinders the bequeather from making or altering a testamentary provision or in the same manner induces the bequeather to make or alter a testamentary provision if it is no longer possible for the bequeather to express his or her actual testamentary intention;
- (iv) Knowingly and unlawfully removes or destroys a will or testamentary contract if it is no longer possible for the bequeather to renew it.

**(vii) The right to freedom of thought, conscience and religion**

252. The Constitution guarantees everyone the freedom of conscience, religion and thought. Everyone may freely belong to churches and religious societies. There is no State church. Everyone has the freedom to exercise his or her religion, both alone and in community with others, in public or in private, unless this is detrimental to public order, health or morals (art. 40).

253. Everyone has the right to remain faithful to his or her opinions and beliefs. No one shall be compelled to change them (art. 41).

254. The Churches and Congregations Act sets out the procedure for joining churches and congregations and the regulation of their activities. Pursuant to the Act, everyone is free to choose, confess and proclaim his or her religious beliefs. No one is required to give information about his or her confession or membership of a church. It is prohibited to restrict a person's rights and interests on the basis of his or her religious beliefs and such restriction is punishable as a criminal offence.

255. A conscript who has refused to serve in the armed forces for religious or moral reasons is obliged to undergo alternative service pursuant to the procedure provided by the Defence Forces Service Act.

256. Medical, educational, welfare and penal institutions are required to enable people in their institutions to exercise their religion in accordance with their confession if they so wish and if it is not detrimental to the order established in these institutions and to the interests of other people in the institution.

257. Conscripts serving in the armed forces are guaranteed the possibility to exercise their religion by the command staff of a military unit.

258. Services and religious ceremonies in medical, educational, welfare and penal institutions and in military units are organized by a church or congregation with the permission of the local government or relevant authority.

259. Every person who is at least 15 years of age may independently join or leave a congregation in accordance with the procedure prescribed in its statutes. A child who is younger than 12 years may only belong to the congregation of his or her parents on the wish of the parents, or with the parents' agreement to a congregation of one of the parents in accordance with the statutes of the congregation.

260. All members of a church or congregation are equal before the law. Every adult member of a church or congregation has the right to inquire about and obtain information about the issues concerning the activities of his or her church, congregation or association of congregations. Persons who have active legal capacity and are 18 years of age have the right to participate in the elections of the board and officials of the church or congregation, unless the statutes prescribe a higher age limit. Every person has the right to leave a church or congregation, informing the board of the church or congregation of his or her decision.



261. A congregation with at least 12 adult members who have active legal capacity may apply for registration. Statutes of churches, congregations and associations of congregations and amendments and revisions thereto are registered by the Ministry of Internal Affairs, which maintains the register of churches, congregations and associations of congregations.

262. A church, congregation or association of congregations has the right to be a founding member or member of national and international church, religious, charity or educational organizations.

263. The following national congregations have been registered with the Department of Religious Affairs of the Ministry of Internal Affairs:

Ukrainians

Tallinn Congregation of the Ukrainian Greek-Catholic Church;

Armenians

Estonian Congregation of St Gregory of the Armenian Apostolic Church;

Jews

Estonian Jewish Congregation;

Jewish Progressive Congregation in Tallinn;

Jewish Progressive Congregation "Hineiny" in Narva;

Swedes

Tallinn Swedish-Michael Congregation of the Estonian Evangelic Lutheran Church;

Ingrian-Finns

Ingrian-Finns Congregation of the Estonian Evangelic Lutheran Church in Tallinn;

Finnish Congregation of the Estonian Evangelic Lutheran Church in Tartu;

Germans

German Congregation "The Redeemer" of the Estonian Evangelic Lutheran Church in Nõmme;

Russians

Old-believers' Congregations (11);

Tallinn Congregation of Russian Evangelical Christians and Baptists;

Sillamäe Congregation of Evangelical Christians and Baptists;

Narva Congregation of the Estonian Methodist Church;

Fellowship of the New Covenant in Tallinn;

Full Gospel Congregation in Tallinn;  
Pentecostal Congregation “Immanuel” in Tallinn;  
Russian Pentecostal Congregation in Pärnu;  
Christian-Pentecostal Congregation in Kohtla-Järve;  
Pentecostal Congregation “The Reviver” in Tallinn;  
Full Gospel Free Congregation “Gift of Grace” in Jõhvi;  
Russian Congregation of the Estonian Christian Pentecostal Church in Lasnamäe;  
Russian Congregation of the Estonian Christian Pentecostal Church in Sillamäe;  
Russian Congregation of the Estonian Christian Pentecostal Church in Pärnu;  
Russian Congregation of Evangelical Christians and Baptists in Kohtla-Järve;

#### Poles

There is a Polish national group within the Congregation of St. Peter and Paul of the Roman Catholic Church in Tallinn who are served in Polish.

#### Lithuanians

There is a Lithuanian national group within the Congregation of St. Peter and Paul of the Roman Catholic Church in Tallinn who are served in Lithuanian.

#### Mixed congregations

The majority of the 58 congregations of the Estonian Apostolic Orthodox Church are mixed Estonian-Russian congregations;

Congregations of the Roman Catholic Church in Valga, Ahtme, Narva and Sillamäe are Estonian-Russian mixed congregations;

Estonian Islam Congregation and Estonian Muslim Sunnite Congregation, embracing the Tartars, Azerbaijanis, Kazakhs, Uzbeks, Chechens and Lesgins;

The Baha’i community in Tallinn includes Estonians, Persians and Russians;

The Christian Congregation of the New Testament in Tallinn embraces Estonians and Russians.

#### Under the Canonical Subordination of the Moscow Patriarchy (predominantly Russian-speaking associations)

The Pühtitsa Dormition Stavropegic Convent;

The Aleksander Nevski Stavropegic Congregation in Tallinn.

**(viii) The right to freedom of opinion and expression**

264. Pursuant to article 45 of the Constitution, everyone has the right to freely disseminate ideas, opinions, beliefs and other information by word, print, picture and other means. This right may be restricted by law in order to protect public order or morals, or the rights and freedoms, health, honour and good name of others. This right may also be restricted by law for State and local government civil servants, to protect a State or business secret or information received in confidence that has become known to them by reason of their office, and the family and private life of others, as well as in the interests of justice. There is no censorship.

265. Article 44 of the Constitution stipulates that everyone has the right to freely obtain information disseminated for public use. At the request of an Estonian citizen, and to the extent and in accordance with procedures established by law, all State agencies and local governments, and their officials are obliged to provide information about their activities, with the exception of information the disclosure of which is prohibited by law, and information which is intended for internal use only.

266. Every Estonian citizen has the right to access information about himself or herself held in State agencies and local governments and in State and local government archives, pursuant to procedure established by law. This right may be restricted pursuant to law to protect the rights and freedoms of others or the confidentiality of a child's parentage, and in the interests of preventing a criminal offence, apprehending a criminal offender, or ascertaining the truth in a criminal proceeding (Constitution, art. 4).

267. The Constitution allows for restrictions on freedom of expression only on the basis of the law. The Criminal Code provides such restrictions for the protection of national defence, or the rights, reputation, health or morals of others. The restrictions imposed by the Criminal Code can be considered as necessary in a democratic society and non-discriminatory. For example, the Criminal Code establishes that the incitement of national, racial, religious or political hatred, violence or discrimination shall be punished by a fine or detention or deprivation of liberty for up to one year (art. 72<sup>1</sup>).

268. Estonian legislation does not regulate the press or publishing. There is no law on the press as such in Estonia; cases regarding libel are covered by civil and criminal codes. There is no censorship. Everyone may freely publish newspapers, periodicals or books. However, the Criminal Code prohibits the printing of certain publications, such as those containing war propaganda or inciting racial or religious hatred.

269. Restrictions on the freedom of expression in relation to the prohibition of incitement to discrimination can also be found in the Advertising Act, which entered into force on 1 January 1998 and establishes the prohibition of offensive advertising in article 5:

An advertisement is offensive if it is contrary to good morals and customs, calls on people to act unlawfully or to violate prevailing standards of decency, or if it contains such activities. Offensive advertising is prohibited.

An advertisement is considered offensive in particular if the advertisement: presents, incites or endorses discrimination on the grounds of nationality, race, colour, sex, age, language, origin, religion, political or other opinion, and financial or social status or other circumstances.

270. The activities of electronic media in the Republic of Estonia are regulated by the Broadcasting Act, which entered into force on 15 June 1994. Pursuant to article 1 of the Act, one of its objectives is to regulate the procedure for broadcasting information and the principles of broadcasting activities. According to the Act, everybody can obtain the permission to broadcast.

271. The principles of broadcasting activities are provided in chapter II. A broadcaster has the right, in compliance with the law and the conditions of a broadcasting licence, to freely decide on the content of its programmes and programme services (art. 6). Thus, it is prohibited for broadcasters to transmit programmes the content of which is in conflict with the principles of the Constitution or laws prohibiting discrimination or incitement of discrimination. This prohibition is established by article 9, which guarantees standards of decency and legality as follows: “Broadcasters shall not transmit programmes the content of which is immoral or in conflict with the Constitution or laws.”

272. Pursuant to article 13, broadcasters shall appoint executive producers or equivalent persons for programmes and programme services who will be responsible for ensuring, inter alia, that programmes or programme services meet the requirements of law and observe the principle of freedom of expression.

273. For the purposes of the Broadcasting Act, *Eesti Raadio* (Estonian Radio) and *Eesti Televisioon* (Estonian Television) are broadcasting organizations in public law. Article 25, which establishes the functions of *Eesti Raadio* and *Eesti Televisioon*, states, inter alia, the responsibility to satisfy the information needs of all nationalities, including national minorities. Article 26 stipulates basic requirements for programmes and programme services of *Eesti Raadio* and *Eesti Televisioon*, and that, pursuant to subsection 2 of article 26, the programmes and programme services of *Eesti Raadio* and *Eesti Televisioon* shall influence everyone to respect human dignity and observe laws, considering the moral, political and religious beliefs of different nationalities.

#### **(ix) The right to freedom of peaceful assembly and association**

##### **The right to freedom of peaceful assembly**

274. The right of assembly is provided in Estonia by article 47 of the Constitution, which states “All persons shall have the right, without prior permission, to assemble peacefully and to conduct meetings. This right may be restricted in the cases and pursuant to procedure provided by law to ensure national security, public order, morals, traffic safety and the safety of participants in a meeting, or to prevent the spread of an infectious disease.”

275. The purpose of the Public Assemblies Act, in accordance with article 47 of the Constitution, is:

- (i) To guarantee people's right to assemble peacefully and to conduct meetings in accordance with fundamental rights, freedoms and duties and the principles of a democratic country governed by the rule of law;
- (ii) To establish restrictions on organizing and conducting public meetings that are necessary to ensure national security, public order, morals, traffic safety and the safety of participants in a meeting, or to prevent the spread of an infectious disease.

276. For the purposes of the Public Assemblies Act, a public meeting is a meeting, demonstration, rally, picket, religious event, procession or other manifestation conducted in a square, in a park, on a road, street or other public place in the open air.

277. It is prohibited to organize a meeting that:

- (i) Is directed against the independence and sovereignty or the Republic of Estonia or at violently changing the current system of government;
- (ii) Incites to violently infringe the territorial integrity of the Republic of Estonia;
- (iii) Incites national, racial, religious or political hatred, violence or discrimination between social strata;
- (iv) Incites to violate public order or undermines morals.

278. It is prohibited to conduct a public meeting:

- (i) At a border post or closer than 300 metres to the State border;
- (ii) Closer than 50 metres to a unit of the defence forces or the territory of a defence forces establishment;
- (iii) On a bridge, on railway track or in a mine;
- (iv) Under a high-voltage electric line;
- (v) On a territory where an infectious disease has spread;
- (vi) In a dangerous place in nature or in other place that may be dangerous to people.

279. The Act also establishes requirements for organizers of public meetings. The organizer and steward of a public meeting has to be an adult person who has active legal capacity and who is:

- (i) An Estonian citizen, or;
- (ii) An alien staying in Estonia on the basis of a permanent residence permit.

280. The organizer of a meeting has to submit a notice of meeting at least seven days prior to the date of the meeting:

- (i) To the rural municipality government or city government on whose administrative territory the public meeting is to be conducted;
- (ii) To the county government if the public meeting is to be conducted on the administrative territory of several municipalities or cities of that county;
- (iii) To the Government of the Republic if the public meeting is to be conducted on the administrative territory of several counties.

If reorganization of traffic is needed for conducting a public meeting, the organizer has to submit the relevant notice 10 days prior to the date of the public meeting and enclose with the notice a traffic scheme approved by the police and local government.

281. The organizer of a public meeting is required to:

- (i) Be present at the meeting and ensure the peaceful conduct of the meeting;
- (ii) Ensure the safety of participants in the meeting and if necessary use barriers to close off dangerous areas;
- (iii) Observe the requirements of health protection;
- (iv) Warn persons who cause disturbances;
- (v) Stop a speaker if the speaker makes statements that call the participants in the meeting to engage in prohibited activities;
- (vi) Comply with the orders of the police and the medical and rescue services;
- (vii) Terminate the meeting prematurely if the activities of the meeting become violent and endanger public order or people's life or health.

282. The steward of a meeting is required to observe the following requirements for the conduct of public meetings:

- (i) Be present at the place of the meeting;
- (ii) Propose to police officers present at the meeting that they remove persons who disregard his or her orders;
- (iii) Comply with the orders of the police and the medical and rescue services;
- (iv) Carry clearly visible identification with the indication “Steward”.

283. Participants in a public meeting are required:

- (i) To behave peacefully at the meeting;
- (ii) To comply with the orders of the organizer, steward, police and medical and rescue services at the meeting.

284. The official accordingly authorized by the head of a government agency or local government agency is required to notify the relevant police prefect and medical and rescue service of the date, place and route of the public meeting within one day of receipt of the notice of public meeting.

285. The Act also establishes requirements for the notice of conducting a public meeting. If the notice is not submitted in accordance with the requirements provided by law or if the conducting of another public meeting at the same time and at the same place or route has been registered earlier, the official of the government agency or local government agency has the right not to register the notice. The official will promptly issue the organizer a reasoned communication to that effect, referring to the provisions of the law in accordance with which the notice was not registered. The organizer may submit a new notice of conducting a public meeting that complies with the requirements of the law, or the organizer may dispute the decision not to register the notice in administrative court. Conducting a public meeting is prohibited if the notice for public meeting was not registered.

286. Conducting of public meetings during emergency situations and states of emergency is regulated by the Emergency Situation Act and the State of Emergency Act.

### **The right to association**

287. Although the right of association does not require formal registration by a public authority, in the majority of cases it is in the interests of the founders to found a legal association as a legal person (in order to own collective property and to be liable for their actions collectively). In accordance with the General Principles of the Civil Code Act, a legal person in private law may be founded pursuant to the act concerning the corresponding category of legal

persons (Non-profit Associations Act, Political Parties Act, Churches and Congregations Act, Commercial Code, Cooperatives Act, etc.), and a legal person in public law may be founded pursuant to the act directly concerning that legal person.

288. The Estonian Constitution makes a distinction between forming non-profit and profit-making associations. The Constitution establishes that “Everyone has the right to form non-profit undertakings and unions” (art. 48). Article 31 further stipulates that “Estonian citizens have the right to engage in enterprise and to form commercial undertakings and unions. Conditions and procedure for the exercise of this right may be provided by law. Citizens of foreign States and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.”

289. Pursuant to the Non-profit Associations Act, every natural or legal person who complies with the requirements of the articles of association of a non-profit association may be a member of the non-profit association. A non-profit association has to comprise at least two members unless the law or the articles of association prescribe a greater number of members. The management board decides on membership in a non-profit association unless this is placed in the competence of the general meeting or some other body by the articles of association. A non-profit association may be founded by at least two persons. The founders may be natural or legal persons. In order to found a non-profit association, the founders enter into a memorandum of association. A memorandum of association will set out the name, location, address and objectives of the non-profit association being founded; the names and residences or locations, and the personal identification codes or registry codes of the founders; the obligations of the founders with regard to the non-profit association; and the names, personal identification codes and residences of the members of the management board. Upon conclusion of a memorandum of association, the founders also approve the articles of association of the non-profit association as an annex to the memorandum of association. A non-profit association must have a management board that manages and represents the association. The management board may have one member or several members. Members of the management board must be natural persons with active legal capacity and at least one half of the members of the management board must be persons whose residence is in Estonia.

290. Pursuant to the Commercial Code, any natural person may be a sole proprietor (self-employed person). If a person is without active legal capacity, a legal representative shall conclude transactions in the name of the person to the extent provided by law. If the active legal capacity of a person is restricted, he or she may, under the conditions provided by law, conclude transactions with the consent of a legal representative. According to the Commercial Code, both natural and legal persons may be founders of commercial undertakings.

291. Participation in associations of different ethnic groups, according to sociological surveys, is as shown in the following table.



**Table 6**

**Participation in associations**

Participation in associations (%)	Estonians	Russians	Others
In none	51.5	61.2	52.4
In one	26.8	29.6	40.8
In two	14.0	7.8	3.9
In three	5.0	1.0	1.9
In four or more	2.6	0.5	1.0

292. Many non-profit associations have joined together under various umbrella organizations, for example the Network of Estonian Non-profit Organizations (NENO) that has been in operation since 1991. NENO is an organization founded for the common implementation and protection of the interests of Estonian non-profit associations and foundations that contributes to the development of a balanced society through its activities. The main objectives of the organization are to develop the common activities of non-profit associations and foundations in Estonia and to express and protect their views and common interests before the State and local government bodies, to introduce non-profit activities and their good traditions, and to involve the informed public and its members in developing civil society in Estonia.

293. Every non-profit association or foundation that is registered in Estonia and operates in the public interest may apply for membership in NENO, which had 129 legal members as at May 2001. All these non-profit associations and foundations are recognized organizations in the non-profit arena in Estonia and their activities are aimed at charitable support of science, culture, education, human rights, sport, health care, social welfare, nature protection and sustainable development in public interests.

**(e) Economic, social and cultural rights, in particular**

**(i) The right to work and free choice of employment, etc.**

294. In the social sphere, article 29 of the Constitution guarantees the right to work and to free choice of employment by establishing: “An Estonian citizen has the right to freely choose his or her sphere of activity, profession and place of work. Conditions and procedure for the exercise of this right may be provided by law. Citizens of foreign States and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.” In the same article, the Constitution places an obligation on the State to organize vocational training and assist persons who seek employment in finding work.

295. Pursuant to the Aliens Act, an alien must hold a work permit to work in Estonia. The following do not require a work permit in order to work in Estonia:

- (i) Aliens with permanent residence permits;

- (ii) Aliens who have arrived in Estonia at the invitation of the Government of the Republic or an authorized government agency for a stay of up to one year for the implementation of a cooperation or aid programme;
- (iii) Aliens who applied for a residence permit before 12 July 1995 and to whom a residence permit has been issued pursuant to the procedure provided in the Aliens Act.

296. Pursuant to article 10 of the Employment Contracts Act, it is illegal to allow or give preferences, or to restrict rights on the grounds of the sex, nationality, colour, race, native language, social origin, social status, previous activities, religion, political or other opinion, or attitude towards the duty to serve in the armed forces of employees or employers. It is also illegal to restrict the rights of employees or employers on the grounds of marital status, family obligations, membership in citizens' associations, or representation of the interests of employees or employers.

297. It is not contrary to the above to:

- (i) Allow and give preferences based on pregnancy or the raising of children;
- (ii) Take into account the sex of an employee in hiring or assigning duties if this is unavoidable due to the nature of the work or working conditions;
- (iii) Allow a suitable working and rest time regime which satisfies the religious requirements of an employee;
- (iv) Require language skills necessary for the work and pay compensation for proficiency in languages.

298. The rights granted to employees by law or administrative legislation may be extended by collective agreements or employment contracts, or by unilateral decisions of employers.

299. The rights granted to employees by collective agreements may be extended by employment contracts or unilateral decisions of employers.

300. Pursuant to the Employment Contracts Act, employment contract terms which are less favourable to employees than those prescribed by law, administrative legislation or a collective agreement are invalid. The law, administrative legislation or collective agreement applies instead of the invalid employment contract terms unless the parties agree on new terms.

301. Terms established by unilateral decisions of employers which are less favourable to employees than those prescribed by law, administrative legislation, collective agreements or employment contracts are invalid. The law, administrative legislation, collective agreement or employment contract applies instead of the invalid terms.

302. The Act prescribes that in the event of a conflict between provisions, the provision which is more favourable to employees applies.

303. Citizens of foreign States and stateless persons who reside in Estonia permanently have rights pertaining to employment equal to those of Estonian citizens unless otherwise prescribed by law. Specific conditions pertaining to the employment of citizens of foreign States and stateless persons who are residing in Estonia temporarily or for a specified period of time shall be prescribed by law.

304. The provision of employment services to persons who seek employment and to employers is regulated by the Employment Service Act. In accordance with the Act, employers and persons who seek employment who are permanent residents of Estonia or refugees staying in Estonia have the right to use employment services provided by employment offices. Employment services are free of charge for persons who seek employment and for employers.

305. Employment service means a service to persons who seek employment to assist them in finding employment and to promote professional development, and to employers to assist them in finding a suitable labour force. The types of employment service are:

- (i) Providing information on the situation in the labour market and the possibilities of employment training;
- (ii) Employment mediation;
- (iii) Vocational training;
- (iv) Vocational guidance;
- (v) Providing an employment subsidy to start a business;
- (vi) Providing an employment subsidy to employers to employ less competitive unemployed persons;
- (vii) Community placements.

306. Employment services facilitate the engagement in employment of persons who seek employment and assist employers in finding a suitable labour force. The Act also establishes the principles for the provision of employment services:

Employment services must facilitate the engagement in employment of persons who seek employment and assist employers in finding suitable labour force;

The provision of employment services will be based on the need and right of employers to freely choose their labour force and on the need and right of persons who seek employment to freely choose work;

In the provision of employment services, the situation in the labour market and forecasts concerning it will be taken into account;

In the provision of employment services, State employment offices and employment service providers who are legal persons in private law or sole proprietors entered in the commercial register will act in cooperation, taking into account the proposals of organizations of employers and employees;

In the provision of employment services, preferences may not be given and the rights of persons who seek employment may not be restricted on the grounds of their nationality, sex, age, type of disability, sexual orientation, colour, race, social origin, social status, religion, political or other beliefs, or representation of the interests of employees or employers, unless it is prescribed by other Acts.

307. The purpose of the Social Protection of the Unemployed Act that was passed on 14 June 2000 is to regulate the registration of persons as unemployed, the payment of State unemployment benefits, single benefits and study grants through the employment offices. On the basis of the Act, the Minister for Social Affairs adopted the regulation "The procedure for the extension of the period for the payment of the State unemployment benefit and the entitlement to the benefit". According to this regulation, employment services are provided and unemployment benefits paid to:

- (i) Permanent residents in Estonia;
- (ii) Aliens who stay in Estonia on the basis of a temporary residence permit;
- (iii) Refugees who stay in Estonia until the expiry of the term of their residence permit.

308. On 13 June 2001, the Riigikogu passed the Unemployment Insurance Act that regulates the payment of benefits in the case of a person's unemployment. Unemployment insurance is a compulsory type of insurance the purpose of which is the payment of benefits to employees in the case of their unemployment, collective redundancy or insolvency of the employer. Insured persons who have been registered as unemployed and who have been insured for at least 12 months during the 24-month period prior to registering as unemployed have the right to the unemployment insurance benefit.

309. Pursuant to the Draft Gender Equality Act, it is considered a discrimination in employment if the employer employs, promotes, chooses for a position, training or fulfilment of a duty a person of one sex, leaving aside a better qualified person of the opposite sex, except in cases where there were compelling reasons or the choice was based on facts not related to sex. It is also considered discriminatory if the employer establishes less favourable conditions of pay or other conditions for an employee than for an employee of the other sex who is doing the same or equal work. If the person applies to the court or other competent authority, presenting the facts on the basis of which it may be presumed that there has been direct or indirect discrimination, the person against whom the complaint is filed has to prove that the principle of equal treatment was not violated.

310. The Wages Act determines the legal regulation of the remuneration of persons who work under an employment contract, the grant of guarantees and payment of compensation relating to remuneration.

311. An employer establishes wage rates according to differences in work and working conditions, based on a collective agreement entered into between the employer and employees. The wage rate of an employee is determined by agreement of the parties upon entering into an employment contract. Wage rates are amended by agreement of the parties and upon amendment of the minimum wage if the minimum wage established in an enterprise, agency or other organization is lower than the minimum wage established by the Government of the Republic or a collective agreement.

312. Pursuant to the Wages Act, it is prohibited to increase or reduce wages on the grounds of an employee's sex, nationality, colour, race, native language, social origin, social status, previous activities, religion, political or other opinion, or attitude towards the duty to serve in the armed forces. It is also prohibited to reduce wages on the grounds of marital status, family obligations, membership in citizens' associations or representation of the interests of employees or employers.

313. The Wages Act also establishes the principle of equal pay according to which it is prohibited to establish different wage conditions for employees of different sex if they do the same work or work of equal value. On the demand of an employee, the employer is required to prove that he or she has followed this principle and the giving of preferences is due to objective circumstances not related to sex. An employee has the right to demand explanations concerning the bases for the calculation of wages.

314. An employee has the right to demand equal remuneration for the same work or work of equal value and compensation of loss caused by the infringement of the principle of equal pay. The duration, extent and type of unequal remuneration is taken into account in determining the amount of compensation. Upon engaging an employee, the employer is required to inform the employee of the legal regulation concerning equal remuneration.

### **Employment programmes**

315. In the course of economic reforms, major businesses have concentrated in Tallinn and its surrounding areas. In order to reduce regional differences, the Government has approved six regional development programmes, regional policy loans and a regional support system for entrepreneurship. There are regional development programmes for the islands, mono-functional settlements, Ida-Viru county (where the majority of population are non-Estonians), village movement, border areas and peripheral areas. The regional policy loan is intended to support businesses that are important from a particular region's point of view, to improve the preconditions for entrepreneurship and to create jobs in areas with a high rate of unemployment. Applications for support may be submitted by individuals, non-profit associations, local governments and entrepreneurs.

316. In Ida-Viru county, the conclusion of so-called regional employment acts and other acts between regional authorities and social partners has been started.

317. In 1998, the project “Activating people with low competitive ability in the labour market” was started. The aim of the project is to create activation centres in regions with high unemployment. The task of the centres is to activate people with low competitive ability in the labour market and to support their return to the labour market. In 1998, activation centres were created in eight counties. The aim of the centres is to:

Help in the search for employment people who cannot cope with it without outside help;

Create/restore the work habit among people who have been unemployed for a longer period;

Activate people who are capable of work but who apply for subsistence benefits and are not interested in finding work;

Assist local businesses in creating new jobs and in this way increase employment.

318. In 1999, the programme “Increasing employment, avoiding long-term unemployment and preventing exclusion from employment of persons belonging to risk groups” was initiated. The main aim of the programme is to prepare an employment action plan and subprogrammes on the basis of the plan. The employment action plan will be based on four main guidelines adopted by the European Union member States for developing employment:

Increasing employment;

Developing entrepreneurship;

Supporting adaptation with innovation among businesses and employees;

Strengthening policies to ensure equal opportunities.

319. In the framework of the programme, subprogrammes will be implemented that, in accordance with the priorities identified in the action plan, will help to develop entrepreneurship, increase employment, reduce long-term unemployment and prevent the exclusion of persons in risk groups from the labour market. There are plans to develop measures to prevent the growth of unemployment among young people.

**(ii) The right to form and join trade unions**

320. On 14 June 2000, the Riigikogu passed the Trade Unions Act. The Act sets out the general rights of trade unions and the bases for their activities and their relations with State and local government agencies and employers. A trade union is an independent and voluntary association of persons which is founded on the initiative of those persons and the objective of which is to represent and protect the employment, service-related, professional, economic and social rights and interests of employees. Trade unions achieve their objectives by acting as social dialogue partners with employers, associations of employers, local governments and the Government of the Republic in mutual informational activity, consultation and collective bargaining and in other issues involving the interests of employees.

321. Pursuant to the Trade Unions Act, persons have the right to found trade unions freely, without prior permission, and to join or not to join trade unions. The rights of employees or persons who seek employment may not be restricted on the grounds of their membership in trade unions, of being elected representatives of trade unions or of other legal activities related to trade unions. Members of the armed forces who are in active service in the Defence Forces may not found or join trade unions.

322. Trade unions have the right to form and join federations and central federations in order to represent the rights and interests of employees. Trade unions have the right to join international organizations of employees.

323. In their legal activities, trade unions are independent of employers, associations of employers and representatives thereof, State agencies and local governments and other organizations. Trade unions have the right to independently organize their activities and management, to prepare their articles of association and action plans and to freely elect their representatives.

324. Employers, associations of employers and representatives thereof, State agencies and local governments may not dissolve, restrict or prohibit the activities of trade unions or intervene in the internal affairs of trade unions. The activities of a trade union may only be terminated voluntarily or by a court judgement.

325. In accordance with the Act, in order to exercise their competence, trade unions have the right to:

- (i) Receive freely information concerning employment and social affairs and other information concerning issues involving the interests of employees from employers, their representatives, State agencies and local governments;
- (ii) Conduct bargaining on employment, service-related and social issues with employers and associations of employers, State agencies and local governments for entry into collective and other agreements;
- (iii) Submit proposals concerning draft legislation relating to the employment, service-related, professional, economic and social rights and interests of members of the trade unions (federations);
- (iv) Receive information on the situation in the labour market, vacant jobs and possibilities of employment training from State employment agencies through representatives elected by the trade unions;
- (v) Disseminate their positions through the mass media and their own printing facilities and media, develop publishing and issue and distribute newspapers and other printed matter;
- (vi) In order to achieve their objectives, organize meetings, political meetings, street parades, pickets and strikes pursuant to the procedure prescribed by law;

- (vii) Freely develop any kind of foreign relations in order to carry out their objectives specified in the articles of association, including joining international organizations of employees;
- (viii) Train and consult their members on employment and social issues and other issues involving the interests of employees;
- (ix) Exercise other rights prescribed in acts or agreements.

326. Estonia has ratified the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, article 11 of which provides for the freedom to set up trade unions and join them to protect one's rights.

327. At present, there are two trade union confederations (central unions) in Estonia: the Estonian Central Union of Trade Unions (EAKL) with 26 member unions and TALO with 10 member unions. EAKL has approximately 65,000 members and TALO has around 50,000 members.

328. EAKL and TALO (Confederation of Estonian Employees' Unions), as well as their member organizations, have set up extensive international relations with trade union organizations in Europe and in other countries. EAKL became a member of the International Confederation of Free Trade Unions (ICFTU) in December 1994 and an observer member of ETUC in May 1998. In May 1999, EAKL is expected to become a full member of ETUC and TALO an observer member of the European Trade Union Confederation (ETUC). Around 20 member unions of EAKL and TALO are members of vocational secretariats of ICFTU and branch committees (federations) of ETUC. In practice, the State has not interfered in the setting up of national trade unions nor in their membership in international trade union federations.

329. Since 1993, the Republic of Estonia has ratified the following ILO Conventions:

Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise;

Convention No. 98 concerning the Application of the Right to Organise and to Bargain Collectively;

Convention No. 135 concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking;

Convention No. 144 concerning Tripartite Consultations to Promote the Implementation of International Labour Standards.

330. The Republic of Estonia has submitted its reports on the fulfilment of the above ILO Conventions.



**(iii) The right to housing**

331. Relationships that arise when residential space is given for permanent dwelling are regulated by the Dwelling Act, which also provides the basis for other normative acts regulating residential relationships in Estonia. Unless otherwise provided by an international agreement binding on Estonia, provisions of the Act are applied to foreign citizens and stateless persons residing in Estonia.

332. The subject of housing relationships is residential space. Residential space is a dwelling house or an apartment that can be used as a permanent dwelling. The legal basis for the use of residential space is the right of ownership of the residential space, membership of a dwelling association (cooperative), a residential lease or other bases provided by law. The Act also provides guarantees of residential rights, whereby no one may be evicted from residential space or his or her rights to use the residential space restricted in any other way than in accordance with the procedure and bases provided by the Dwelling Act.

333. The owner may himself or herself use the residential space, give it for use by his or her family members or, on the basis of a contract, for use by other persons, or use it for housing temporary residents pursuant to the procedure provided by the Dwelling Act. Family members of the owner of a residential space whom he or she has housed in the residential space owned by him or her have the right to use the rooms equally with the owner unless otherwise agreed upon their housing. They have the right to house their minor children in the space given to their use by the owner; housing of other family members is allowed only with the permission of the owner.

334. The Dwelling Act also regulates relationships between residential lessors and lessees. In accordance with the residential lease, the lessor undertakes to give into other person's (lessee's) use the residential space for dwelling during an agreed period and in accordance with the agreed conditions; the lessee undertakes to use the rented space in accordance with its purpose and to pay the rent.

335. Residential disputes are settled in court. Local government units may form residential dispute committees for extrajudicial settlement of disputes arising from the conclusion, extension or amendment of a residential lease or the determination or changing of the amount of rent, as well as other disputes arising from the implementation of the residential letting contract. The committee acts as a conciliation committee. A dispute between a lessor and lessee is settled in the committee on the basis of a common written application by the interested parties or on the basis of a written application by one party to which the consent of the other party for settlement of the dispute in the committee has been added.

336. The term for applying to the committee is two months from the date when the person learned or should have learned about the violation of his or her rights. Applying to the committee is exempt from the payment of a State fee. The committee will not begin to settle the dispute or will end the proceeding if a claim has been submitted to a court concerning the same dispute or if the claim has already been settled by the committee or court, or if settling the dispute is outside the competence of the committee. The applicant is sent notice to this effect.

337. The committee may also settle disputes on the basis of an oral application by an interested party who has appeared at a meeting of the committee. Upon the submission of an oral application, the committee acts as a conciliator of the parties, limiting itself to discussing and explaining the matter.

338. In the case of disagreement with the committee's decision, the disputing parties may turn to a court for a review of the same dispute within one month from the date of receiving a copy of the committee's decision. The recourse to court is in the form of a statement of claim, not an appeal of the committee's decision. The committee's decision will enter into force after the deadline for recourse to a court has passed, if none of the parties has filed a statement of claim to the court. Complying with a committee decision that has entered into force is obligatory for the parties.

339. On the basis of the Dwelling Act, it is within the competence of the local government council to establish the procedure for the use of residential space in municipal ownership. The procedure for granting social housing is established by the rural municipality council or city council.

340. Pursuant to the Social Welfare Act, local government authorities are required to provide housing for persons or families who are unable or incapable of securing housing for themselves or their families and to create, if necessary, the possibility for them to lease social housing or to use a shelter. Persons who have difficulties moving about, caring for themselves or communicating in a dwelling will be assisted by the rural municipality government or city government in adapting their dwelling or in obtaining a more suitable dwelling

**Table 7**  
**Living conditions in 1998**

	Average	Including			
		In city	In country	Estonians	Non-Estonians
Type of house (%)					
Single family home, farmhouse, row house	27	14	55	37	7
Multi-apartment house	71	84	44	61	91
Dormitory	2	2	1	2	2
Average number of rooms per family member	1.2	1.1	1.3	1.2	1.1
Net floor area per family member (m <sup>2</sup> )	32.3	27	44	37	23
Conveniences (%)					
Water closet	76	87	53	68	91
Bathroom or shower	71	81	50	63	88
Sauna	19	10	40	27	5
Sewerage	83	92	64	77	94
Central heating	67	78	42	56	87
Gas stove	53	54	51	49	61
Electric stove	44	44	45	47	38

**Table 7 (continued)**

	Average	Including			
		In city	In country	Estonians	Non-Estonians
Hot water	55	65	33	46	73
Telephone <sup>a</sup>	55	60	44	55	55
Closest food shop (%)					
Up to 1 km	89	99	68	85	98
1-3 km	8	1	23	11	2
More than 3 km	3	-	9	4	-
Closest basic school					
Up to 1 km	70	86	36	63	83
1-3 km	16	12	23	18	12
More than 3 km	14	2	41	19	5
Closest polyclinic, medical assistance (%)					
Up to 1 km	54	61	38	49	62
1-3 km	25	30	15	25	26
More than 3 km	21	9	47	26	12
Closest public transport stop (%)					
Up to 1 km	91	96	79	89	94
1-3 km	8	4	18	10	6
More than 3 km	1	-	3	1	-

Source: Living standards survey.

<sup>a</sup> As compared to 1994, the provision of telephones in apartments has significantly improved - in four years a growth of 32 per cent, in addition also the number of mobile phones has grown rapidly.

341. According to the Housing Development Plan approved by the Government of the Republic, it is intended to start housing development programmes (building, reconstruction) based on partnership between the State, local governments, various financial institutions, private real estate entrepreneurs and, first of all, non-profit organizations active in the housing sphere, including housing development associations. The local governments will offer either free plots of land or buildings in need of renovation and will have the right to establish the criteria for choosing the residents, the proportion of municipal apartments and the price range of apartments. Third sector organizations or private entrepreneurs would be the customers ordering the programmes, and commercial banks as a rule would be the financiers. Funds from the State budget would be allocated as purpose-oriented grants for the programmes that best meet the strategic development plan in the housing sphere.

342. A municipal housing fund will be created, first of all for repairing and renovating existing housing that is suitable for dwelling (rental housing, social housing, social rehabilitation centres, shelters and other forms of housing for poor and marginal social groups) with the direct support of the State. In the housing sector overall, those measures are supported that would allow for a more economical use of existing housing.

343. There are plans to create an information bank to meet the needs of people seeking housing and potential possibilities to offer housing on the basis of the existing housing fund, to offer loans on favourable terms and to improve legislation for better regulation of residential lease relationships (approximately half of the tenants in houses returned to their previous owners wish to remain tenants either in privately owned or municipal apartments).

**Table 8****Social welfare institutions**

Social welfare institutions	1998	1999	2000
Social welfare institutions for children	37	39	37
Social welfare institutions for adults	107	113	115
Wards in social welfare institutions for children	1 699	1 710	1 715
Inmates in social welfare institutions for adults	5 609	5 794	5 785

Source: Statistical Office of Estonia.

**Table 9****Shelters and social rehabilitation centres**

Shelters and social rehabilitation centres	1998	1999	2000
Institutions providing temporary assistance	24	25	28
Shelters	14	16	18
Social rehabilitation centres	10	9	10
Total number of places	630	701	706
Shelters	214	234	298
Social rehabilitation centres	416	467	408
Total number of persons who used the services of an institution	5 291	6 450	6 696
Shelters	1 669	1 702	2 119
Social rehabilitation centres	3 622	4 748	4 577

Source: Statistical Office of Estonia.

(iv) **The right to public health, medical care, social security and social services**

344. Social security in Estonia consists of five insurance programmes:

Pension insurance, comprising the national pension, the old-age pension, the pension for incapacity for work and the survivor's pension;

Health insurance, comprising expenses for medical services, compensation for the cost of medicinal products, sickness benefits and maternity benefits;

Family allowances;

Unemployment benefits;

Death grant.

**State pension insurance**

345. General pension insurance is regulated by the State Pension Insurance Act, which was passed in 1998. The Act entered into force on 1 January 2000. The Act provides the organization of State pension insurance, the conditions and procedure for the grant and payment of State pensions, etc.

346. The State Pension Insurance Act provides for four classes of State pension:

National pension;

Old-age pension;

Pension for incapacity for work;

Survivor's pension.

347. A national pension is granted to persons who do not have the right to receive an old-age pension, a pension for incapacity for work or a survivor's pension because they have not completed a sufficient number of years of pensionable service or their accumulation period is insufficient. Thus, the following have the right to receive a national pension:

Persons who have attained 63 years of age who do not have the right to receive another class of pension and who have been permanent residents of Estonia or have resided in Estonia on the basis of a temporary residence permit for at least 5 years before making a pension claim, if they do not receive a pension from another State;

Persons who are declared permanently incapacitated for work, whose loss of capacity for work is at least 40 per cent and who have not completed a sufficient number of years of pensionable service or whose accumulation period is insufficient for the grant of a pension for incapacity for work, if they do not receive a pension from another State; Persons who, in connection with the insufficient number of years of pensionable service or the insufficient accumulation period of their providers, do not have the right to receive a survivor's pension, if they do not receive a pension from another State;

Persons who have reached the age of the old-age pension who were paid a national pension on the basis of permanent incapacity for work until the attainment of the age of the old-age pension or a pension paid under the previous law, if the amount is higher, until the term specified in the earlier law.

348. Persons who have attained 63 years of age or who are of an age set out in this Act and who have completed at least 15 years of pensionable service or whose accumulation period acquired in Estonia is at least 15 years have the right to receive an old-age pension. Old-age pensions are granted for life.

349. The right to receive an old-age pension under favourable conditions arises:

- (i) Five years before attaining the age prescribed in the Act for a mother, father, step-parent, guardian or caregiver who, for at least 8 years, has raised a disabled child, a child under 18 years of age with a moderate, severe or profound disability, a child under 18 years of age disabled from childhood, or 5 or more children, if he or she has completed at least 15 years of pensionable service or his or her accumulation period is at least 15 years;
- (ii) Three years before attaining the age prescribed in the Act for a mother, father, step-parent, guardian or caregiver who has raised 4 children for at least 8 years, or 1 year before attaining the age prescribed in the Act for a mother, father, step-parent, guardian or caregiver who has raised 3 children for at least 8 years, if he or she has completed at least 15 years of pensionable service or his or her accumulation period is at least 15 years;
- (iii) Other persons listed in the Act.

350. A person has the right to receive a pension for incapacity for work from the age of 16 years until attaining the pensionable age provided for in the Act if he or she is declared permanently incapacitated for work pursuant to the procedure established by the Government of the Republic and his or her loss of capacity for work is between 40 and 100 per cent; and in the case of permanent incapacity for work a person who has completed the years of pensionable service or acquired the accumulation period in Estonia provided for by the Act by the time the pension may be granted. An alien residing in Estonia on the basis of a temporary residence permit has the right to receive a pension for incapacity for work during the term of the temporary residence permit if he or she is declared incapacitated for work in Estonia and meets the requirements for receiving a pension provided for in the Act.

351. Upon the death of a provider, a survivor's pension will be granted to family members who were maintained by him or her. Children, parents and the widow or widower of the provider will be granted a pension regardless of whether they were maintained by the provider or not. An alien residing in Estonia on the basis of a temporary residence permit will be granted a survivor's pension during the term of the temporary residence permit if the right to receive the pension arises in Estonia. Family members who have the right to receive a survivor's pension are:

- (i) A child, brother, sister or grandchild who is under 18 years of age (or who is under 24 years of age and is a student enrolled in daytime study at an upper secondary school or vocational educational institution or a student enrolled in full-time study at a university or institution of applied higher education), or who is older if he or she was declared permanently incapacitated for work before he or she attained 18 years of age (or in the case of a student enrolled in daytime or full-time study, before he or she attained 24 years of age). A brother, sister or grandchild has the right to receive a pension if he or she does not have parents with capacity for work;
- (ii) A parent, who is of pensionable age or permanently incapacitated for work, or a widow or widower who is of pensionable age or permanently incapacitated for work whose marriage to the provider had a duration of at least five years;
- (iii) A divorced spouse if he or she attained pensionable age or was declared permanently incapacitated for work before the divorce, or within 3 years after the divorce if the marriage had a duration of at least 25 years;
- (iv) One parent, or the widow, widower or guardian who is not employed and is raising in his or her family a child, brother, sister or grandchild of the provider who is under 14 years of age.

352. For some categories of workers (on the basis of lists of professions involving work in difficult conditions or conditions hazardous to health, and some separately established categories), preferable conditions are applied with regard to the required pensionable age and pensionable service. These exceptions are regulated by the Superannuated Pensions Act and Old-Age Pensions on Favourable Terms Act.

353. National pensions, old-age pensions, pensions for incapacity for work, survivor's pensions, as well as superannuated pensions and old-age pensions on favourable terms, are granted and paid by pension offices which are regional divisions of the State Social Insurance Board. The Social Insurance Board is under the area of administration of the Ministry of Social Affairs.

354. Pensions are paid to persons for whom contributions are paid in Estonia. Today, Estonia has social insurance agreements with Finland, Latvia, Lithuania and Ukraine.

### **Health insurance**

355. Pursuant to the Healthcare Act, every person staying on the territory of Estonia has the right to emergency medical assistance. Emergency medical assistance means assistance in a situation where delaying the assistance directly endangers a person's life or health. If the person is uninsured and has no means of income, the county government will pay for the treatment from the funds allocated for this purpose by the State.

356. Health insurance is a State-guaranteed system for the payment of the costs related to preserving the health of residents of the Republic of Estonia, the costs related to their temporary incapacity for work and their medical treatment as a result of illness or injury, and benefits in the event of pregnancy and childbirth. Health insurance is regulated by the Health Insurance Act.

357. All persons for whom social tax is paid or who have a duty to pay social tax, and also all persons equal to insured persons are deemed to be insured with compulsory health insurance. The following non-working persons have equal status to an insured person:

- (i) A spouse dependent upon an insured person;
- (ii) A child under 18 years of age;
- (iii) A student enrolled in daytime study;
- (iv) A parent or a guardian who is caring for a disabled child under 18 years of age or for a person disabled since childhood;
- (v) A curator of a category I disabled person;
- (vi) A pregnant woman from the twelfth week of pregnancy;
- (vii) A person who receives a State pension granted in Estonia.

358. The health insurance of residents of foreign States not covered by compulsory health insurance is organized pursuant to the procedure provided by international agreements.

359. Health insurance benefit is a monetary compensation payable to an insured person or a non-monetary compensation provided for an insured person under the conditions and pursuant to the procedure provided for in this Act. The monetary health insurance benefit is the benefit for temporary incapacity for work. The non-monetary health insurance benefits are:

- (i) Health or other services provided for health promotion, disease prevention or treatment;
- (ii) Medicinal products distributed at a discount, to the extent covered by the health insurance fund.



360. Health insurance covers medical examinations and treatment services, for example:

Doctor's appointments;

Diagnostic examinations;

Treatment procedures;

Prophylactic procedures;

Hospital bed days;

Operations;

Procedures for disease prevention (vaccination);

Follow-up treatment of diseases (sanatorium vouchers);

Aids, etc., fitted during or after an operation.

361. The patient's own account payment for a medical service is the visit fee, a monetary payment established by the Ministry of Social Affairs that people pay when they go to a medical institution or for a doctor's home visit. The third type of health insurance support is compensation of the cost of medicinal products for certain categories of insured persons. Health insurance funds pay pharmacies the difference between the sum paid by the patient and the normal cost of the medicine.

362. Compulsory health insurance is organized by the Estonian Health Insurance Fund. The Estonian Health Insurance Fund is a uniform health insurance system in public law and its activities are financed from purpose-oriented income sources. The health insurance system observes the principle of social justice in ensuring the provision of medical services and other types of health insurance benefits to insured persons. The health insurance fund is a client-centred and open organization whose aim is to provide access for insured persons to high-quality medical services and to guarantee that people have a feeling of security in the event of sickness.

363. The mission of the health insurance fund is to provide insured persons, on the basis of solidarity and their own limited contribution, with health insurance benefits - treatment, medicines at discount prices, temporary incapacity for work benefits - arising from their needs and within the revenue base of the health insurance fund.

364. Health insurance is financed from the health insurance part (13 per cent of the payments made to employees) of the social tax that is paid by employers. Compulsory health insurance benefits are paid by the health insurance fund of the place where the person is registered as insured.

365. On 30 June 2001, the register of insured persons in the Estonian Health Insurance Fund comprised 1,287,700 persons. The budget of the Health Insurance Fund for 2001 was 445,702,100 Estonian kroons.

366. Citizens of other countries are provided with medical assistance in accordance with international agreements entered into by Estonia and the States concerned.

### **State family benefits**

367. Pursuant to the State Family Benefits Act, families with children have the right to receive State family benefits for the partial reimbursement of expenses relating to the care, raising and education of children. Family benefits are granted and paid to:

- (i) Permanent residents of Estonia;
- (ii) Aliens residing in Estonia who have temporary residence permits;
- (iii) Refugees staying in Estonia.

368. The Act establishes the following state benefits:

- (i) Childbirth allowance;
- (ii) Child allowance;
- (iii) Childcare allowance;
- (iv) Single parent's child allowance;
- (v) Conscript's child allowance;
- (vi) Child's school allowance;
- (vii) Foster care allowance;
- (viii) Start in independent life allowance;
- (ix) Allowance for families with four or more children and families raising triplets.

**Table 10****Amount of payments of State family benefits, 1998-2000  
(thousands of kroons)**

Amount of payments of State family benefits in a year	1998	1999	2000
Total	1 159 272	1 146 188	1 317 024
Childbirth allowance	31 304	32 238	42 023
Child allowance for the 1st child	381 445	373 348	366 991
Child allowance for the 2nd child	256 330	247 265	239 331
Child allowance for the 3rd and each subsequent child	113 276	108 049	105 494
Single parent's child allowance	42 433	42 346	85 084
Maintenance allowance for a person on childcare leave with a child of up to 2 years of age	160 826	159 611	-
Maintenance allowance for a person on childcare leave with a 2 to 3 year-old child	37 697	37 312	-
Single parent's child allowance for a disabled person raising a child alone	3 308	3 970	-
Maintenance allowance for a non-working person raising a 3 to 18 year-old disabled child	7 071	7 522	-
Supplementary maintenance allowance for a person raising a 2 to 3 year-old disabled child	368	446	-
Childcare allowance for a child of up to 3 years of age	-	-	270 099
Child's school allowance, once a year	105 354	104 936	102 528
Other child and family benefits			

Source: Statistical Office of Estonia.

369. Pursuant to the Social Welfare Act, persons residing on the territory of the Republic of Estonia whose monthly income is below the subsistence level established by the Government of the Republic based on the minimum consumption expenditure have the right to receive subsistence benefits. The grant of a subsistence benefit is based on the income of the person married to the benefit applicant or living in the same dwelling with the benefit applicant in a conjugal relationship, the income of their children and parents who are maintained by them or of other persons using one or more sources of income jointly or having a shared household. Subsistence benefits are granted and paid by rural municipality governments and city governments under the conditions and pursuant to the procedure established by the Government of the Republic from funds in the State budget prescribed for this purpose.

(v) **The right to education and training**

**Adult training**

370. Pursuant to the Adult Training Act, adults have the possibility to learn throughout their life. Adult training institutions are institutions and organizations whose statutes set out adult training as one of their activities. On the basis of the Act, local government bodies are required to support the participation of disabled and socially less secure learners in training courses. The Adult Training Act stipulates that local governments shall ensure opportunities to acquire basic and secondary education to everyone permanently residing in their administrative territories.

371. According to the Basic Schools and Upper Secondary Schools Act persons who have passed the minimum permitted school-leaving age and have not completed their basic education may do so through evening courses or distance learning and graduate from school as external students. Persons who have completed their basic education may acquire general secondary education through evening courses or distance learning and graduate from school as external students. Attendance at State schools and general education schools of local governments is free of charge.

372. Pursuant to the Vocational Educational Institutions Act, a vocational educational institution may organize adult in-service training for pay. In accordance with Minister of Education regulation No. 25 of 27 October 1998 on “The fields, forms and procedure for adult training provided by vocational educational institutions”, in-service adult training is provided in the form of courses. Courses may be held for the purpose of acquiring a new profession, specialization or skill by means of initial training, retraining or further training.

373. Pursuant to the Applied Higher Educational Institutions Act, one of the functions of applied higher educational institutions is to provide further training. According to the Act, further training means improvement of professional or specialized knowledge or skills. All persons with secondary education have an equal right to compete for admission to an applied higher educational institution. Thus, adults can learn a profession, specialization or skill if they so wish and have the means for study.

374. The Income Tax Act provides tax benefits whereby an employer’s training expenses are exempt from company income tax, or a person’s and his or her dependants’ training expenses are deducted from the person’s taxable income.

375. State employment offices organize employment training for persons registered as unemployed and for persons who receive a disability pension and have partial capacity for work. Employment training is divided into professional education and training and training for adaptation to the requirements of the labour market.

376. Pursuant to the Social Protection of the Unemployed Act, unemployed persons and persons seeking employment have the right to receive information from State employment offices about the possibilities of employment training. Employment offices have county

databases of training possibilities; at the end of 1999, nationwide employment services information system was completed that can be used to obtain information about training possibilities all over Estonia. Brochures setting out the possibilities for employment training have been prepared and employment offices also participate at fairs.

377. The KETE database has been created. It contains up-to-date information on vocational schools, their curricula and study possibilities, vocational training statistics and the main trends in the labour market. The KETE database was created jointly by the Vocational Education and Employment Monitoring Centre, the Ministry of Education and the Ministry of Social Affairs, with financial support from the European Training Foundation.

378. The creation of a State qualification system has been started in the course of which internationally recognized standards for vocational skills and their assessment and the procedure for vocational certification will be drawn up. The system will have to meet the requirements of employers for the quality of labour and motivate employees to improve themselves continuously in order to compete in the labour market.

**(vi) The right to equal participation in cultural activities**

379. In accordance with article 49 of the Estonian Constitution, everyone has the right to preserve his or her national identity. Article 50 of the Constitution further stipulates that national minorities have the right, in the interests of their national culture, to establish self-governing agencies under conditions and pursuant to procedure provided by the National Minorities Cultural Autonomy Act.

380. The basic idea of the National Minorities Cultural Autonomy Act is acceptance of the right of ethnic minorities to preserve their ethnic identity, culture and language.

381. The State Integration Programme provides that an analysis of the National Minorities Cultural Autonomy Act will be undertaken jointly by the President of the Republic's roundtable on National Minorities and other parties.

382. In 2000, approximately 160 ethnic cultural societies and art groups were operating in Estonia (see annex). Ethnic cultural societies and art groups have mostly joined together in four associations and federations of ethnic cultural societies:

- (i) The International Federation of Associations of Ethnic Cultural Societies "*Lüüra*" (28 societies and 5 art groups);
- (ii) The Association of Estonian Nationalities (22 societies);
- (iii) The Federation of Slavic Educational and Charitable Associations in Estonia (46 societies and 20 collectives);

- (iv) The umbrella organization of ethnic cultural societies operating in Ida-Viru county, the Roundtable of Ethnic Cultural Societies of Ida-Viru County (22 societies).

The above-mentioned associations are partners of the State in the advancement of the educational and cultural life of national minorities and ethnic minorities.

383. On 18 May 1989 the Association of Estonia's Peoples was established. Pursuant to its by-laws, it is a union of national associations and organizations, the basic aim of which is to protect the cultural, political, social and economic interests of national minorities. In recent years the activities of the Association of Estonia's Peoples have centred around monitoring the observance of the rights of national minorities, organizing meetings between agencies dealing with problems pertaining to national minorities and the representatives of the minorities, and mediating the exchange of information and experiences between the cultural societies.

384. The idea of founding the Union of Estonia's Associations of National Cultures, *Lüüira*, was born during a joint festival on 9 May 1995. The festival developed into a tradition and evolved into *Lüüira*, which was registered in 1997. The main activity of *Lüüira* is the organization of yearly cultural festivals, in the framework of which seminars, exhibitions and other events are organized. Once or twice a year *Lüüira* organizes training seminars, instructing participants how to address foundations and State agencies. In addition to the Ministry of Culture, the City of Tallinn has also supported the activities of *Lüüira*.

385. *Lüüira* runs a cultural university "I Live in Estonia", which teaches Estonian history and culture. The members of *Lüüira* - Armenian, Georgian, Ingrian Finnish, Korean, Romany, Setu, Ukrainian and Russian societies - teach their children in Sunday schools their languages, history and cultures. Within the framework of *Lüüira* there is a legal aid centre and a political club, as well as an information and publishing centre.

386. The Union of Slavic Educational and Charity Societies, which unites several Russian-speaking organizations, organizes the traditional song festival *Slaavi Pärg* (Slavic Wreath).

387. The State-financed Russian Drama Theatre operates in Tallinn. The State supported the theatre with 6,408,000 kroons in 1998. In 1998, the Russian Drama Theatre staged nine new productions. The total audience amounted to 73,300 and the number of performances was 274.

388. The main outlets for the cultural interests of national minorities and ethnic minorities are ethnic cultural societies and art groups.

389. Other forms of educational organization, including hobby schools, have been used as the main outlets for the educational interests of other national minorities and ethnic minorities. National minorities and ethnic minorities have also used Sunday schools for the advancement of their educational and cultural life.

## Sunday schools

390. Sunday schools are part of the hobby education, offered strictly on a voluntary basis, established for the study of the culture, history, origins and languages of ethnic minorities. The establishment of Sunday schools is regulated by the Private Schools Act, the Hobby Schools Act and the National Minorities Cultural Autonomy Act.

391. There is only one Sunday school (Tallinn Armenia Sunday School) officially registered with the Ministry of Education. No other school has applied for formal hobby school status.

392. According to unofficial data gathered from associations of ethnic minorities there are about 30 Sunday schools acting as informal voluntary cultural societies. Those schools enjoy financial support from the Estonian Government (the Ministry of Culture and the Ministry of Education), local authorities, the Integration Foundation and from a multi-donor project (the Nordic/UK/UNDP project “Support to integration”).

393. In 2000 the cultural societies and their Sunday schools were supported as follows: EK 1,540,000 from the Ministry of Culture, EK 150,000 from the Ministry of Education, EK 663,300 from the Integration Foundation and EK 545,000 from multi-donor projects (the Integration Report data).

394. In addition to educational institutions for national minorities and ethnic minorities, this role is also to a certain extent fulfilled by the teaching of subjects in another language at Estonian-language and Russian-language schools. The shaping of the concept of the multicultural school, which was commenced in 2000 in coordination with the Jaan Tõnisson Institute, and various continuing education courses on this topic for teachers and school administrators, are also important.

## State programmes

395. There are several programmes to increase awareness in Estonian society of cultural differences and to expand the opportunities for ethnic minorities living in Estonia to preserve their linguistic and cultural distinctiveness and to increase their knowledge about Estonia.

### **Development of materials (on history, culture, Estonians, ethnic minorities) introducing Estonian multiculturalism**

Output	Budget
Ten projects were supported in the framework of the Estica [Estonian subject matter] competition.	EK 294 786
The documentary <i>Tere kallis kodu</i> (Hello dear home) was supported. This half-hour long OÜ Filmistuudio AMOR film tells the viewers about people who live in a country that is not their ethnic homeland. The film is a topic film that uses portraits and asks the question “What is a homeland?”	EK 52 000

Output	Budget
The compilation <i>Integratsioonimaastik - ükskõiksusest koosmeeleni</i> (The Landscape of Integration: from Indifference to Consensus) The compilation of articles, published by the Jaan Tõnisson Institute, contains materials from the international conference “Cultural pluralism in Estonia: policies and solutions” held on 8 and 9 October 1999.	EK 10 200

### Preparation of materials on regional local history

Output	Budget
Preparatory work for the preparation of materials was carried out. The materials will appear in 2001.	EK 200 000

**(f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks.**

396. According to article 34 of the Constitution, everyone who is legally in Estonia has the right to freedom of movement and to choice of residence. Everybody has access to places and services intended for use by the general public.

397. The Local Government Organization Act allows local governments to establish public order regulations to guarantee public order, clean neighbourhoods and the safety of people.

398. Pärnu city regulations can be mentioned as an example. The regulations are valid on the administrative territory of the city of Pärnu in public places and in specific cases also on private territories and properties and in private buildings and facilities. Observance of the regulations is compulsory for everyone. A public place is every territory, building or room that has been given over to public use or which in fact is publicly used, for example streets, buildings, parks, restaurants, shops, businesses, stairways of residential buildings, etc. As to restaurants, cafes and other public places, everyone has free access to them. The regulations prohibit, for example, indecent expression, making noise or other acts infringing other people's peace and security, or acts degrading human dignity. Persons violating the rules of behaviour established by the regulations will be held liable in accordance with the Code of Administrative Offences. Public maintenance is organized by the city government whose relevant agencies are required to ensure through their activities that public places and territories in municipal ownership are kept in order.

### Article 6

399. The Constitution stipulates that everyone has the right to the protection of the State and of the law. The Estonian State shall also protect its citizens abroad. The law shall protect everyone from the arbitrary exercise of State authority (art. 13). The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers and of local governments (art. 14). Everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to petition for any



relevant law, other legislation or procedure to be declared unconstitutional. The courts shall observe the Constitution and shall declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided by the Constitution or which is otherwise in conflict with the Constitution (art. 15). Everyone has the right to compensation for moral and material damage caused by the unlawful action of any person (art. 25). Courts and administrative authorities are obliged to take into account the principle of equality before the law of all persons.

400. Legislative protection against discrimination is described in more detail under article 2 in this report.

401. Justice is administered solely by the courts. The courts are independent and administer justice in accordance with the Constitution and the laws (article 146 of the Constitution). The Estonian court system is governed by chapter 13 of the Constitution as well as the Courts Act and the Status of Judges Act.

402. In courts of first instance and courts of appeal where more than one judge administers justice, civil, criminal and administrative matters shall be divided between judges and panels at random, taking into account the specialization of judges if necessary. The procedure for the division of matters shall be approved by the general meeting of judges of the corresponding court.

403. All courts are competent to deal with questions of human rights. The Constitution states that in a court proceeding, the court will leave unapplied any law or other legislation that is in conflict with the Constitution. The Supreme Court will declare invalid any law or other legislation that is in conflict with the provisions and spirit of the Constitution (art. 152). Provisions of the International Convention on the Elimination of All Forms of Racial Discrimination can be directly invoked before the courts or other institutions.

404. The decisions of county, city and administrative courts may be reviewed in appeal proceedings. At least three judges will participate in the hearing of matters in appeal proceedings in sessions of chambers of the courts of appeal. The chairman of a court of appeal has the right to include county, city or administrative court judges of the same circuit who have not participated in the hearing of the matter in first instance.

405. At least three judges will participate in the hearing of matters in cassation proceedings in sessions of chambers of the Supreme Court. The Supreme Court will review court decisions in cassation proceedings. In the cases and pursuant to the procedure provided by law, the Supreme Court will hear petitions for review filed against court decisions and will correct court errors. The Supreme Court is also the court of constitutional review.

406. In 1999, the Riigikogu passed the Code of Administrative Court Procedure which establishes the competence of administrative courts, the procedure for recourse to administrative courts and the administrative court procedure. The Code of Administrative Court Procedure entered into force in January 2000.

407. Administrative courts comprise separately formed administrative courts and the administrative chambers of the courts of appeal and the Supreme Court in hearings of administrative matters. The following fall within the competence of administrative courts:

- (i) Adjudication of disputes in public law;
- (ii) Grant of permission to take administrative measures in the cases provided by law;
- (iii) Adjudication of other matters which are placed within the competence of administrative courts by law.

408. The administrative acts against which an action or protest may be filed with an administrative court are the orders, directives, resolutions, precepts or other legislation that regulate individual cases in public law relationships, issued by agencies, officials or other persons who perform administrative functions in public law. Public law contracts that regulate public law relationships are also deemed to be administrative acts. Measures against which an action or protest may be filed with an administrative court are activities, omissions or delays in public law relationships by agencies, officials or other persons who perform administrative functions in public law.

409. A person who finds that his or her rights have been violated or his or her freedoms have been restricted by an administrative act or measure has the right to file an action with an administrative court. An action for the establishment of the existence or absence of a public law relationship or the unlawfulness of an administrative act or measure may be filed by a person who has legitimate interest in the matter. A protest against an administrative act or measure may be filed with an administrative court by an agency or official to whom the corresponding right is granted by law. An association of persons, including an association that is not a legal person, may file an action with an administrative court in the interests of the members of the association or other persons if the corresponding right is granted to the association by law.

410. A register of decisions of circuit courts and the Supreme Court is kept, with the purpose of systematizing them and making them accessible to the public. The register of court decisions is maintained and the information in it is processed by the Supreme Court. Information for the register is submitted by the Supreme Court for decisions of the Supreme Court and by circuit courts for the decisions of circuit courts.

411. Since 2001, the Ministry of Justice maintains a database of statistics and decisions of the first and second instance courts. The function of the database is to:

Provide up-to-date statistical court information for the public, courts and other State agencies;

Publish, pursuant to the requirements of the Public Information Act, court decisions that have entered into force;

Create preconditions for establishing uniform court practice.

412. The Riigikogu is processing the draft constitutional review court procedure act, which establishes the competence of the Supreme Court as the court of constitutional review, the procedure for recourse to the court and the court procedure.

413. According to the draft act, the Supreme Court:

- (i) Adjudicates actions to review the conformity of legislation with the Constitution;
- (ii) Adjudicates actions to review the conformity of an international agreement with the Constitution;
- (iii) Adjudicates actions and complaints against decisions of the Riigikogu;
- (iv) Adjudicates complaints against decisions of the Board of the Riigikogu;
- (v) Adjudicates complaints against decisions of the President of the Republic;
- (vi) Adjudicates actions to declare a member of the Riigikogu, the President of the Republic, the Legal Chancellor or the State Auditor permanently incapable of exercising his or her duties;
- (vii) Adjudicates actions to terminate the powers of a member of the Riigikogu;
- (viii) Decides whether to grant consent to the Chairman of the Riigikogu in the capacity of the President of the Republic to call extraordinary elections or refuse to proclaim an Act;
- (ix) Adjudicates actions for terminating the activities of a political party;
- (x) Adjudicates complaints against decisions and acts of the electoral committee.

414. Pursuant to the above-mentioned draft act, the Supreme Court reviews the conformity of legislation or an international agreement with the Constitution on the basis of a justified application, court decision or ruling. Applications to the Supreme Court may be submitted by the President of the Republic, the Legal Chancellor or a local government council. A court commences the proceedings for constitutional review by delivering a court decision or ruling to the Supreme Court. In adjudicating the case, the Supreme Court is not bound by the justifications given in the application, court decision or ruling. In adjudicating the matter on the basis of a court decision or ruling, the Supreme Court may declare to be void or unconstitutional any legislation, international agreement or provision thereof that is relevant to the case. The Supreme Court will not adjudicate legal disputes that should be settled in accordance with the provisions of court procedure applicable in civil, criminal or administrative offences.

415. Pursuant to the draft act, the Supreme Court, in adjudicating a case, may:

- (i) Declare unconstitutional legislation that has not entered into force or a part thereof;

- (ii) Declare void legislation that has entered into force or a part thereof;
- (iii) Declare unconstitutional an international agreement that has or has not entered into force or a part thereof;
- (iv) Annul a decision of the Riigikogu to put a draft law or other national issue to a referendum;
- (v) Declare that the disputed legislation or international agreement was unconstitutional at the time when the application for review was made;
- (vi) Reject the application.

416. If a person finds that a decision of the Riigikogu, the Board of the Riigikogu or the President of the Republic violates his or her rights, he or she has the right to file a complaint to the Supreme Court within 10 days of the date on which the decision entered into force. If during the review of a complaint filed against a decision of the Riigikogu, the Board of the Riigikogu or the President of the Republic the Court has a justified doubt with regard to the constitutionality of the relevant legislative act or international agreement, the Court will make a ruling to renew the proceedings. In adjudicating the matter, the Supreme Court may:

- (i) Annul the decision of the Riigikogu, the Board of the Riigikogu or the President of the Republic or a part thereof;
- (ii) Reject a complaint.

### **The right of recourse to other institutions**

417. Pursuant to the Constitution, guaranteeing the rights and freedoms of members of society is the duty of the legislative, executive and judicial powers, and of local governments. These three powers have to guarantee equal treatment of all members of society in accordance with generally recognized principles of democracy. Everyone whose rights and freedoms are violated has the right to the protection of the State.

418. One of the constitutional institutions which can help people in this issue is that of the Legal Chancellor. Pursuant to the Legal Chancellor Act, everyone has the right of recourse to the Legal Chancellor to supervise the activities of State agencies, including the guarantee of the constitutional rights and freedoms of persons.

419. The Legal Chancellor considers cases where the applicant either personally or through his or her representative refers to a State agency whose activities, according to the applicant, have infringed his or her fundamental rights. Such a petition may be filed by anyone. It is important that the violation is related to the person of the applicant. It is only possible to review a petition that shows clearly how the rights were violated.

420. The Legal Chancellor may also commence proceedings to control the activities of a State agency on his or her own initiative if, on the basis of information obtained beforehand, there is reason to believe that constitutional rights or freedoms have been violated in a State agency. One such source of information is the media. It has become a rule that the Legal Chancellor does not fail to notice information published in the media about possible violations of persons' rights. Special attention is paid to accusations against the police, the prosecutor's office, prisons, customs authorities, the border guard, the Citizenship and Migration Board or other State agencies. The Legal Chancellor pays close attention to the concerns of persons who cannot themselves adequately stand up for their rights or whose freedom is limited. These are children, persons in care homes and psychiatric hospitals, prisoners and conscripts. Therefore, the Legal Chancellor and his advisers have a special programme to visit children's homes, care homes, psychiatric hospitals, prisons and military units in order to verify on the spot the situation with regard to the guaranteeing of fundamental rights and freedoms, to talk to persons in these institutions and if necessary to commence review proceedings. The intervention of the Legal Chancellor has helped to stop violations and officials who were found guilty have received due punishments.

421. In the majority, the petitions sent to the Legal Chancellor contain not only complaints against State agencies and their officials. Most petitions are applications for assistance to change a court decision, for assessment of the activities of legal persons in private law and the activities of local governments, for explanation of the content of legal norms and the relationships between those norms, and other applications on issues in which the Legal Chancellor can only give explanation and advice. Thus, in this respect the Legal Chancellor fulfils the role of a legal counsellor and assistant. Such applications made up 58 per cent of all written applications in 1999 and 64 per cent of all written applications in the first nine months of 2000. In 1999, petitions for the review of the activities of State agencies and of the guarantee of fundamental rights and freedoms of persons made up 18 per cent of all applications. In 2000, the proportion of such applications had grown to 25 per cent. The applications also ask for review of the activities of boards, inspectorates, county governments and other regional State bodies and their officials.

422. Besides illegal behaviour or offences, the Legal Chancellor also analyses cases of misadministration that do not necessarily constitute illegal behaviour. Misadministration means ignoring good administrative practice and good conduct, failure to perform work, carelessness, unjustified delay, negligence, failure to comply with procedural rules, impolite behaviour, dishonesty, incompetence, misinforming and several other similar situations.

423. The following example can be given regarding the work of the Legal Chancellor. A person turned to the Legal Chancellor in March 2001 who was not satisfied with the decision not to extend his residence permit for the period stipulated in the government regulation "Procedure for application for the issuing, extension and revocation of residence and work permits". After intervention by the Legal Chancellor, the residence permit was issued and an apology for the delay was presented to the applicant.

**Written and oral applications from persons**

	2000	1999	1998	1997	1996	1995	1994	1993
Complaints	694	716	386	325	356	289	300	108
Considered admissible	596	481	324	252	322	356	167	80
Total	1 263	1 197	710	577	678	645	467	188
Institutional complaints	332	333	323	313	284	228	319	76
Total	1 595	1 530	1 033	890	962	873	786	264

424. Estonia has acceded to the European Convention on Human Rights, on the basis of which people have the right of recourse to the European Court of Human Rights. Estonia has also acceded to the optional protocol to the International Covenant on Civil and Political Rights offering a mechanism for submitting complaints. The competence of the Human Rights Committee formed on the basis of the Covenant includes receiving complaints concerning the violation of rights contained in the Covenant. The Covenant and its optional protocol entered into force with respect to Estonia in 1992. As at 1 January 2001, there is no information about complaints against Estonia.

**Article 7****Education and teaching**

425. The Education Act, which is the basis of the Estonian system of education, establishes the following founding principles of education: recognition of values common to all humanity and of national values, and freedom of personality, religion and conscience. One of the aims of education is to create favourable conditions for the development of the personality, the family, and the Estonian nation, as well as of national minorities, and of economic, political and cultural life, and for the environmental protection of Estonia within the context of the world economy and culture (art. 2).

426. Pursuant to the aforesaid, the national curriculum has been worked out emphasizing the importance of promoting tolerance and understanding.

427. The general aims and principles of school education are established by the national curriculum for Estonian basic and secondary education, approved by a regulation of the Government. Pursuant to this act and taking into account individual schools' peculiarities and development trends, each school develops its own curriculum. The national curriculum establishes the basic task of a general education school as follows: to assist in the development of an individual capable of coping with his or her life and work, who develops himself or herself and contributes to the development of the society, determines himself or herself to be a member

of the nation, as a citizen, a person who shares responsibility for the future of Europe and the world, who respects himself or herself and others, and his or her own and other peoples' cultures, who observes the law and the principles of democracy and proceeds from universal moral convictions, etc. (chap. II). Chapter III of the national curriculum defines humanism, democracy, patriotism and internationality as the principles of the curriculum. Under this heading the following has been specifically pointed out: "In interpersonal relations tolerance towards different people is valued and violence is avoided. Cooperation skills are developed, as well as sensitivity towards and understanding of the special needs of others" and "the national curriculum values Estonian national identity, culture and traditions, the identity aspirations and cultivation of culture of Estonians and other ethnic groups living in Estonia".

428. Among the subjects to be taught pursuant to the subject plan in basic and upper secondary schools are anthropology and civics, which aspire, inter alia, to help pupils to value the principles of democracy and human and civil rights, and to develop their political culture. In addition to learning about the traditions and holidays of Estonians, pupils in the first three grades learn about the traditions of national minorities, other countries and peoples, neighbouring countries, Estonia's position among other States. By the end of the third grade, a pupil should realize that the people and traditions of different nations may vary.

429. Certain changes in regulation have occurred in the Basic and Upper Secondary Schools Act in connection with the language of instruction at schools since 2000.

430. On the decision of the owner of a school, any language may be the language of instruction at a basic school. It is also possible to open a school that has a language of instruction different from the general language of instruction. The language of instruction is defined as the language in which at least 60 per cent of the curriculum is taught. Thus, in an Estonian-language upper secondary school it is possible also to study subjects to the extent of 40 per cent of the total amount of lessons in Russian or any other foreign language.

431. The act stipulates that in 2007 transition to Estonian-language upper secondary schooling will begin. A survey carried out at the University of Tartu shows that teachers, pupils and their parents are against Estonian-language upper secondary schools. Students studying to become teachers support instruction in the mother tongue at elementary school and the possibility of studying in two languages at the final level of basic school.

432. The possibility to open a class with instruction in the mother tongue or a class with the mother tongue as a subject has been used by Belarusians and Ukrainians, but there have not been enough interested parents to develop such education and therefore the initiatives have died out after a couple of years. At present, it is considered important to develop a system for supporting Sunday schools.

433. In the framework of the Phare Tempus project "Intercultural competence in EU training modules", training in intercultural communication for education workers, immigration officials and private sector employees was planned and implemented. A six-day

training course was carried out for educational workers in autumn 2000 in the framework of the project. Twenty teachers and education officials participated in the training, the aim of which was to provide a wide-ranging introduction to the topic "Intercultural communication in society and at school". The experience and feedback will make it possible to identify better the need for training and provide a basis for drawing up a concrete training plan. In cooperation with the project, at the request of the Ministry of Education training plans to promote the topic of the multicultural school were developed. After testing, the plans and the training material that has been prepared will be used as a basis by organizers of teacher education and further training for teachers.

## **Culture**

434. The State cultural policy regarding national minorities has recently been reflected in "The fundamentals of the Estonian cultural policy", adopted by a decision of the Riigikogu of 16 September 1998. The document states that decisions pertaining to cultural policy and the allocation of funds shall be based, inter alia, on the following principles:

Every member of society, regardless of his or her sex, ethnic origin and residence, has equal rights to participate in cultural life;

The Estonian State will promote the activities of national minorities in the field of their national culture, as well as cultural contacts with their ethnic homeland.

435. Since 1997, there is a Cultural Council of National Minorities under the Ministry of Culture, which participates in decision-making concerning support to cultural endeavours of national minorities, and in coordinating their cultural life and activities.

436. The Ministry of Culture has provided financial support to the cultural societies of national minorities since 1991. Later on, other sources of financing, such as the Bureau of the Minister dealing with Ethnic Affairs, the Integration Foundation, local governments, etc., have also provided financial support.

437. Cultural societies of ethnic minorities have received significant financial and material support, including EK 2,485,000 from the State Budget and EK 420,000 from foreign donors in 2000. In addition to funds of the State Programme in 2000, local governments have stepped up their support to cultural and educational activities of ethnic minorities. For example, Tallinn City Government allocated EK 5 million in 2000 to support cultural societies of ethnic minorities. In 2001 the total amount of financial support to the cultural societies of national minorities was EK 1,526,000 (119 projects: 61 projects of Russian societies and associations, 9 of Ukrainian, 8 of Belarusian and 41 of other societies and associations).



**Support to projects of national cultural societies, art collectives and Sunday schools**

Result	Budget
<p>1. 89 projects submitted by national cultural societies, art collectives and Sunday schools were supported, including:</p> <p style="padding-left: 40px;">43 from Russian societies and art collectives;</p> <p style="padding-left: 40px;">8 from Ukrainian societies;</p> <p style="padding-left: 40px;">6 from Belarusian societies;</p> <p style="padding-left: 40px;">32 from other ethnic minorities.</p>	<p>EK 1 540 000 (Ministry of Culture)</p>
<p>2. On 22 February 2000, in the hall of the Ministry of Education representatives of the Estonian Association of Nationalities and national cultural societies in Estonia which are its members signed agreements whereby the Association will support the activities of Sunday schools of national societies with money allocated from the budget of the Ministry of Education in 1999.</p>	<p>EK 50 000 (Ministry of Education)</p>
<p>3. 24 projects were supported that are aimed at preserving and becoming familiar with one's national culture through exhibitions, concerts, festivals, Internet sites, books, etc.</p>	<p>EK 663 300 (Integration Foundation)</p>
<p>4. In the framework of 2 project competitions, the activities of 27 projects were supported.</p> <p style="padding-left: 40px;">15 projects related to the organizing of common events of cultural societies, 4 projects to activities of Sunday schools; in the framework of 5 projects one dictionary and four different publications to disseminate information on the activities of cultural societies will be published; under 2 projects an Internet site for two cultural societies was created; and the aim of one supported project was the procurement of a national instrument, the <i>kurai</i>.</p>	<p>EK 545 000 (Subprogram Multi 1)</p>

438. All committees that make decisions regarding the distribution of money for the activities of societies of national minorities include people whose mother tongue is other than Estonian and who represent various institutions dealing with national minorities. For example, the committee of the Ministry of Culture includes representatives of the Riigikogu Cultural Committee, the bureau of the Minister, the President's Roundtable and the Integration Foundation. The director of the Russian Cultural Centre serves on the same committee.

## Information

439. In the field of the mass media, within the integration framework a large-scale media campaign “Integrating Estonia” was launched in August 1999 with a total budget of EK 2.5 million. In the framework of the media campaign, public advertising campaigns, “Lots of great people” and “Interest”, are being launched, an integration-related television series, “Estonia on the air”, is being produced, an integration-oriented Russian language insert *Istoki* of the newspaper *Põhjarannik* is being published, etc. As the development of media campaign has indicated, media enterprises are playing an increasing role in funding and promoting integration-related activities in the mass media.

440. According to the Broadcasting Act, public-service radio and television broadcasters should produce “mainly programmes dealing with information, culture, education and entertainment”. One channel of Estonian Radio is mostly devoted to the transmission of classical music. Of the total transmission time, 1.8 per cent of nationwide television programmes and 13.1 per cent of local and regional television programmes were, in 1998, classified as cultural programmes. For the State-owned Estonian Radio, the corresponding figure was 8.3 per cent and for private radio broadcasters 2.8 per cent. Estonian Radio also transmits various programmes in minority languages.

441. The Russian-language channel *Raadio 4* of Estonian Radio broadcasts, in addition to its programme in Russian, several programmes in other languages, such as Armenian, Ukrainian and Belarusian. The main task of *Raadio 4* is to inform the non-Estonian speaking population about the Estonian political environment, to familiarize it with Estonian history, culture, literature and music, to generate interest in learning Estonian and to support the aspirations of national groups to preserve their identity, especially in the case of the younger generation.

442. In 2000, there were 109 officially registered newspapers published in Estonia, including 82 in Estonian, and 956 periodicals, including 778 in Estonian. There were 16 daily newspapers in 2000, including 12 in Estonian. The only publishing house remaining in State ownership is *Periodika*, which publishes 12 different cultural and educational periodicals.

443. In 2000, one public-service broadcaster, *Eesti Raadio* (Estonian Radio), and 28 commercial broadcasters were operating in Estonia: 12 of them on the basis of a local broadcasting licence, 15 on the basis of a regional licence and 1 on the basis of an international licence. Radio broadcasting in Estonian accounted for 67.1 per cent and in Russian 21.1 per cent of total broadcasting.

444. There is one public-service broadcaster, *Eesti Televisioon* (Estonian Television) and four commercial television stations in Estonia, one of them operating on a local licence and four on a national licence. In addition, five cable television licences have been issued. Television broadcasting in Russian accounted for 5.5 per cent and television broadcasting subtitled in Russian for 1.4 per cent of total broadcasting time.

445. In order to protect the freedom of the press and to deal with the question of the ethics of the media, the Estonian Press Council was set up by the Estonian Newspaper Association (EPC) in 1991. In April 1997, several media organizations decided to reorganize the EPC on a wider basis, i.e. a non-profit organization was founded on the basis of a private agreement between the Newspaper Association, the Association of Broadcasters, the Journalists' Union, the Union of Media Educators and the Consumers' Union. The Network of Estonian Non-Profit Organizations, the Estonian Council of Churches and the Baltic News Service have now also become members of the non-profit organization. The aims of the non-profit organisation are as follows:

To protect the freedom of the press;

To examine complaints about print media (and broadcasting) from the aspect of media ethics;

To support the development of journalists' professional skills (and ethics) and adherence to the good traditions of journalism.

446. The EPC participated in creating the national Code of Ethics. The Code was introduced in December 1997 by the Estonian Newspaper Association, the Association of Estonian Broadcasters and the EPC. Before that adjudications were made on the basis of international professional traditions and the best knowledge of the members of the EPC. At present, the Code provides a basis for assessing cases. But as the Code does not cover all possible cases, the EPC also refers to the body of cases already considered. The EPC is mainly financed by membership fees. Some projects have been financed by foundations. The NGO employs a part-time assistant; the members work on a voluntary basis.

447. The EPC meets once a month. Its adjudications are made independently of the member organizations. In 2000, the EPC received 37 complaints, of which 33 were concluded: 13 cases were upheld, 13 dismissed and 7 rejected.

448. The media plays an important role in fighting racism and in promoting tolerance. An example is a case where the media reacted strongly to the attitude of the owners of Tallinn Bikers' Pub towards black persons. In May 2001, there was a sign on the door of the pub saying "No entry with a bike, tie or Negro". After some time, the sign was removed but a new sign appeared depicting a dirty man crossed out with a red line. On the order of the police, the latter sign was also removed. The police demanded an explanation from the owners concerning incidents in which, in one case, a man was refused entry to the pub with his black wife and, in another, the bartender refused to serve a black man, referring to the rules of the pub that prohibited him serving coloured people. Later, the representative of the owners denied having displayed any discriminating signs, but as there was sufficient evidence, and also based on articles published in the media, a criminal case was brought against the owners of the

Bikers' Pub pursuant to article 72<sup>1</sup> of the Criminal Code, which stipulates the imposition of a fine or detention for directly or indirectly restricting an individual's rights or granting him or her direct or indirect preference on the basis of his or her nationality, race, colour, sex, language, origin, religion, political or other conviction, financial or social status or other circumstances. At the end of 2001, the criminal case was still pending.

### **Publicity**

449. At the order of the Government of the Republic, the writing of reports is divided between different ministries. The Ministry of Social Affairs, the Ministry of Justice and the Ministry of Foreign Affairs are mainly responsible for writing the reports. In order to gather information, the ministries cooperate closely with other State agencies and bodies. There have been meetings between government officials from different ministries about the reporting system. There have also been various training sessions on writing the reports. After a report is completed it is also made public on the Internet.

450. The first report to CERD is available for everyone on the homepage of the Ministry of Foreign Affairs at <http://www.vm.ee>. The Committee's concluding observations on Estonia have also been made available on the homepage.

### **Availability in local languages**

451. Laws for ratifying and denouncing international treaties and international treaties themselves are published in Part II of the *Riigi Teataja* (the State Gazette), which is the official publication of the Republic of Estonia.

452. Distribution of the *Riigi Teataja* is organized by the publisher on the basis of subscriptions and by the sale of single issues through the establishments that distribute media publications. The subscription price and the price for a single issue of the *Riigi Teataja* is established by the Secretary of State, taking into account the costs of publication and distribution.

453. For use of the electronic database of the *Riigi Teataja*, the relevant address of the database is published in the *Riigi Teataja*, providing access to published texts and user information. In order to guarantee availability of the *Riigi Teataja*, rural municipalities and city governments, the Estonian National Library and public libraries are supplied with the *Riigi Teataja* free of charge. The relevant costs are covered by the State budget. Everyone has the right to consult free of charge the issues of the *Riigi Teataja* available in the Estonian National Library and public libraries, rural municipalities and city governments, and to use the electronic database of the *Riigi Teataja* available through the computer network.

454. Texts of the laws are also available via different legal databases on the Internet. The texts of some laws are also available in Russian and English.

455. The National Library fulfils the function of the parliamentary library, providing information services to the Parliament, Government and other constitutional institutions. For this purpose legal, economic and political information is gathered and databases are prepared. Nine international organizations have granted the library the status of a depot collection. In 1995, the Council of Europe Information and Documentation Centre was opened in the building of the National Library, followed in 1998 by the opening of the European Union Information Centre.

456. Several non-governmental organizations are also involved in distributing information and informing the public. The most important of them are the President of the Republic's Roundtable of National Minorities, the Legal Information Centre for Human Rights, the Institute of Human Rights and the Jaan Tõnisson Institute.

**List of legal acts (in the order in which they are referred to in the report)**

1. Constitution of the Republic of Estonia (RT 1992, 26, 349)
2. Advertising Act (RT I 1997, 52, 853)
3. Wages Act (RT I 1994, 11, 154; 2000, 40, 248)
4. Employment Contracts Act (RT 1992, 15/16, 241)
5. Employment Services Act (RT I 2000, 57, 370)
6. Criminal Code (RT I 1999, 38, 485)
7. Code of Criminal Procedure (RT I 2000, 56, 369)
8. Code of Civil Court Procedure (RT I 1998, 43-45, 666)
9. Administrative Court Procedure Act (RT I 1999, 31, 425)
10. State Liability Act (RT I 2001, 47, 260)
11. General Principles of the Civil Code Act (RT I 1994, 53, 889)
12. Act for the Compensation of Damage Caused to the Person by the State through Unfounded Deprivation of Liberty (RT I 1997, 48, 775)
13. State Compensation of Victims of Crime Act (RT I 2001, 12, 50)
14. Public Assemblies Act (RT I 1997, 30, 472)
15. Code of Administrative Offences (RT I 2001, 74, 453)
16. Non-Profit Associations Act (RT I 1998, 96, 1515)
17. Public Service Act (RT I 1999, 7, 112)
18. Employees Disciplinary Punishments Act (RT I 1993, 26, 441)
19. Courts Act (RT 1991, 38, 472; 2000, 35, 219)
20. Legal Chancellor Act (RT I 1999, 29, 406)
21. Referendum Act (RT I 1994, 41, 659)
22. Riigikogu Election Act (RT I 1998, 105, 1743)

23. Local Government Council Election Act (RT I 1999, 60, 618)
24. Language Act (RT I 1995 23, 334; 2000, 51, 326)
25. Local Government Organization Act (RT I 1999, 82, 755)
26. Wartime National Defence Act (RT I 1994, 69, 1194)
27. Aliens Act (RT I 1999, 50, 548)
28. Obligation to Leave and Prohibition on Entry Act (RT I 1998, 98/99, 1575)
29. Refugees Act (RT I 1997, 19, 306)
30. Citizenship Act (RT I 1995, 12, 122; 2000, 51, 323)
31. Family Act (RT I 1994, 75, 1326)
32. Law of Property Act (RT I 1999, 44, 509)
33. Restrictions on Transfer of Immovable Property Ownership to Aliens, Foreign States and Legal Persons Act (RT I 1996, 39, 776)
34. Weapons Act (RT I 2001, 65, 377)
35. Government of the Republic regulation No. 132 of 8 July 1997 on approving the procedure for granting and repayment of student loans and establishing the preferences for the redemption of loans (RT I 1997, 54, 860)
36. Succession Act (RT I 1996, 38, 752)
37. Churches and Congregations Act (RT I 1993, 30, 510)
38. Broadcasting Act (RT I 1994, 42, 680)
39. Commercial Code (RT I 1998, 91/93, 1500)
40. Social Protection of the Unemployed Act (RT I 2000, 57, 371)
41. Unemployment Insurance Act (RT I 2001, 59, 359)
42. Trade Unions Act (RT I 2000, 57, 372)
43. Dwelling Act (RT I 1998, 71, 1199)
44. Social Welfare Act (RT I 2001, 98, 617)

45. State Pension Insurance Act (RT I 2001, 9, 42)
46. Superannuated Pensions Act (RT 1992, 21, 294)
47. Old-Age Pensions Under Favourable Conditions Act (RT 1992, 21, 292)
48. Healthcare Act (RT I 1994, 10, 133)
49. Health Insurance Act (RT I 1999, 7, 113)
50. State Family Benefits Act (RT I 1997, 42, 676; 2000, 102, 668)
51. Adult Training Act (RT I 1998, 71, 1200)
52. Vocational Educational Institutions Act (RT I 2001, 68, 406)
53. Applied Higher Education Institution Act (RT I 1998, 61, 980)
54. Income Tax Act (RT I 2001, 11, 49)
55. National Minorities Cultural Autonomy Act (RT I 1993, 71, 1001)
56. Private Schools Act (RT I 1998, 57, 859)
57. Hobby Schools Act (RT I 1995, 58, 1004)
58. Status of Judges Act (RT 1991, 38, 473)
59. Education Act (RT 1992, 12, 192)

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