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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF ESTONIA
ON THE FOURTH OPINION OF THE ADVISORY COMMITTEE
ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES
BY ESTONIA**

(received on 28 September 2015)

Comments of the Government of Estonia on the fourth opinion of the Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities in Estonia

The Advisory Committee on the Framework Convention for the Protection of National Minorities adopted its fourth opinion on Estonia on 19 March 2015. The Opinion of the Advisory Committee is based on the fourth State Report of Estonia submitted on 2 May 2014, as well as on other written sources and information that the experts of the Advisory Committee obtained at their meetings with governmental officials and non-governmental contacts during the visit to Estonia from 17 to 21 November 2014.

The Government of Estonia highly values the ongoing co-operation with the Advisory Committee and the dialogue that has continued for a decade since the first State Report in 2001. This dialogue has had a positive impact on the policies, legislation, as well as conducting of various programmes and projects involving national minorities in Estonia. As in previous years, Estonia will endeavour to take the proposals and recommendations of the Advisory Committee into account as much as possible and will continue its activities for the protection of national minorities, also in the light of the recommendations of the Advisory Committee.

The Government welcomes the Opinion of the Advisory Committee and hereby submits its remarks and explanations. Reference to the Opinion has been made where necessary.

Article 4 of the Framework Convention Anti-discrimination legislation and its implementation

Paragraph 16

It needs to be elaborated that according to the Citizenship Act, a person who has passed the Estonian language exam and the exam on the knowledge of the Constitution of the Republic of Estonia and the Citizenship Act have the right to apply for the compensation of the cost of the exam. The tuition fee paid for Estonian language training will be compensated for within the limit established by the Government, currently at 384 euros. The amount less than 384 euros will be compensated for in full.

Paragraphs 20-23

We would like to clarify that most of the census data were not collected “from the electronic official registers”, but obtained directly from the respondents via electronic means without any interposition of interviewers. An unprecedented 67% of Personal Questionnaires were completed and delivered to the Census team over the Web. Administrative registers were used for pre-filling the questionnaires and for imputations (about 1% of all answers were imputed).

Secondly, it is stated that “the answer to the question on ethnic origin, [...], was mandatory”. It needs to be pointed out that in fact it was possible to refuse to answer this question both on the Internet and in the face-to-face interview. This possibility was used by 1.15% of the

census population. The decision – not to ask two (or more) ethnic nationalities was made after the pilot census (2009), when two ethnic nationalities were asked from all people. It turned out that the share of persons declaring two ethnic nationalities was only 3.4% of the whole population.

Further, it is worth noting that the Population and Housing Census of 2011 in Estonia is commended both by the Statistical office of the EU (Eurostat) and the UN Population Division.

Regarding the Advisory Committee's recommendations, the Statistics Estonia asserts that it will continue to gather population statistics regularly and will be open to contacts with minority representatives whenever the circumstances may call for it.

Paragraph 24

In 2015 the Ministry of Culture ordered the creation of the integrated database of indicators necessary for assessing the socioeconomic integration of the society from Statistics Estonia. After the completion of the database (at the end of 2015) it will be possible to analyse the educational and socioeconomic indicators of the Estonian population also on the basis of characteristics such as primary home language, citizenship and year of immigration more thoroughly than so far.

Paragraph 25

It needs to be pointed out that the right of self-identification is already fully ensured in all data collection. Nationality is determined by the person responding to the census form. A person has the right to declare him-/herself as a member of that nationality, with which he/she feels ethnically and culturally most strongly related to. A person who feels like he/she belongs to several nationalities will name the nationality most important to him/her. Children's nationality is decided by parents.

Paragraph 26

The statement that "The act explicitly excludes official linguistic requirements for public officials as possible grounds for discrimination" is not correct. There exists no such regulation in the Equal Treatment Act. On the contrary, Section 2 (3) of the Acts states that „This Act does not preclude the requirements of equal treatment in labour relations on grounds of any characteristic not specified in subsection 1 (1) of this Act, in particular due to family-related duties, social status, representation of the interests of employees or membership in an organisation of employees, level of language proficiency or duty to serve in defence forces.“

Paragraphs 27 and 28 (and 10)

The statement that "the number of cases submitted concerning alleged instances of discrimination remains low" would have to be corrected. The number of addresses to the Gender Equality and Equal Treatment Commissioner has risen steadily over the years. Even though the number of cases regarding alleged instances of discrimination on the basis of

ethnicity of race remains relatively low, the total number of cases concerning alleged instances of discrimination could not be described as low in the context of Estonia (192 in 2014).

Also, additional resources have been allocated to the Gender Equality and Equal Treatment Commissioner in 2015. The Commissioner has received extra 80 000 euros to finance the activities concerning disability discrimination. Starting from 2015, the Commissioner has also received additional resources (including two extra positions in the staff) for supporting gender equality and non-discrimination mainstreaming in the use of the EU Structural Funds. The activities include supportive trainings and counselling activities.

Paragraph 28

It needs to be added that the period of implementation of the project by the Commissioners' Office, financed in the framework of the Norway Grants 2009-2014 gender equality programme, co-ordinated by the Ministry of Social Affairs, is 2013-2016 (spring). We would also like to point out that although the projects' main focus is on gender equality, the activities also address multiple discrimination, including the problems related to discrimination based on gender and ethnicity.

Paragraph 29

It needs to be corrected that the Chancellor of Justice Act was last amended at the end of 2014, when the competency of the Chancellor of Justice was enlarged with the task to exercise supervision over observance of fundamental rights and freedoms in organisation of covert collection of personal data and related information, processing, use and supervision thereof by authorities of executive power (Section 1 (9) of the Act).

The Chancellor of Justice can turn to the court only in constitutional review proceedings. More precisely, if the Chancellor of Justice finds that the legislation of general application is unconstitutional and contrary to the laws, the Chancellor may propose to the body, which passed the legislation (i.e. the Riigikogu, Government of the Republic, a minister or local government, etc.) to bring the legislation into conformity with the Constitution and the law.

Paragraph 30

We would like to clarify that the Statistics of the Office of the Chancellor of Justice are based on cases opened. A "case opened" means taking procedural steps and drafting documents to resolve an issue falling within the jurisdiction of the Chancellor. Petitions that raise the same issue are joined and regarded as a single case. This means that the number of applications (i.e. 1901 applications in 2013) may not necessarily equal to the number of cases opened (i.e. 1552 cases in 2013).

Paragraphs 27 and 102

Concerning the discrimination complaint against the Ministry of Foreign Affairs, the Ministry still maintains a diverting opinion regarding the interpretation of the facts and the legal

evaluation of the case. This said, the Ministry has never had an intention to disregard the opinion of the Commissioner in the case. The Ministry holds that there has been no discrimination of the applicant in the case of supposed discrimination based on nationality. There has never been a requirement of language skills at the highest, C2 level at the Ministry. Despite the fact that public officials are required to have a command of Estonian at C1 level according to language requirements, the Ministry of Foreign Affairs in fact did not demand the candidates who participated at the abovementioned competition to prove their language skills, their language skills were evaluated during the whole competition. Totally 201 candidates participated in the competition, 35 of these advanced to the last round and finally 10 of these were accepted. The applicant in question failed to advance in the competition only due to the fact that her or his command of the Estonian language proved to be insufficient. The Ministry of Foreign Affairs has always considered equal treatment of great importance and evaluates highly people who are employed or wish to be employed by the Ministry who have other ethnic background than Estonian.

Article 5 of the Framework Convention Support for national minority cultures

Paragraph 35

It needs to be corrected that the Parliament adopted the general principles of cultural policy document on 12 February 2014.

Paragraph 41

The National Minorities' Cultural Advisory Council established for representing the interests of minority groups operates at the Ministry of Culture from 2008, into whose competence belongs the expression of positions on issues of promoting the cultural life and activity of Estonian national minorities, participating in organising the cultural policy and field of integration in relation to it and making proposals related to it to the Minister of Culture if necessary. In 2015 the Council has 35 members, of whom 34 represent the cultural associations of various national minorities and among whom Russian cultural societies are represented most numerously.

Paragraphs 36 and 42

To raise the sustainability of the organisations representing national minority cultures and facilitating planning development work the umbrella organisations of national cultural societies are offered operating subsidies (basic funding) from the budget of the Ministry of Culture with the coordination of Integration and Migration Foundation Our People (MISA), for the use of which a 3-year framework agreement is concluded with the organisation from 2015, which gives the recipient of the subsidy the sense of security that its activity is financed through the programme in the same amount in the following two years as well.

The subsidies allocated through the Ministry of Culture's programme "Support to the cultural societies of national minorities" are decided by the Minister of Culture, to whom a proposal is made on the allocation of the subsidies by a 5-member committee appointed by the Minister.

To retain impartiality and ensure the decisiveness of the committee, the application round committee of the national minorities' cultural societies consists of a limited amount of area specialists, who assess the conformity of the applications to the aim of the application round and conditions set. Subsidies were allocated to 39 societies in the total sum of 93 000 euros through the programme in 2015.

Article 6 of the Framework Convention

Integration efforts

Paragraph 48

The activities of the development plan are monitored on a rolling basis, i.e. by way of expert opinions and assessments, annual reports and monitoring carried out every three years. The integration monitoring is used to observe the success of the implementation of the development plan by all target groups and areas highlighted in the development plan. The monitoring was carried out in 2014-2015, and is going to be carried out in 2017 and 2020-2021.

Promotion of full and effective equality of Roma

Paragraph 55

We would like to highlight in this regard that the Ministry of Education and Research, the Ministry of Justice and the Ministry of Social Affairs started the project "The improvement of the quality of study counselling of the children of new immigrants and Roma children" at the end of 2014. The purpose of the project is to improve the study counselling services directed at teachers teaching new immigrant and Roma children and to increase the competence of support specialists in involving students and parents of different cultural backgrounds in studies.

Article 9 of the Framework Convention

Minority language media

Paragraphs 61 and 62

The recent activities of the authorities are in full compilation with the recommendation. In June 2014 the supervisory board of the Estonian Public Broadcasting decided to create a new Russian language television channel ETV+, which will be launched in September 2015. The aim of the TV channel is to transmit objective, balanced and diverse information about events in Estonia and the world, to increase the mutual empathy of the national communities in Estonia and develop a joint information field of the Estonian population, by offering for it local success stories as well as considerations of problems shared by the entire population.

Article 10 of the Framework Convention

Use of minority languages in contacts with local administrative authorities

Paragraph 66

According to an amendment to the Language Act, the Language Inspectorate has as of 1 January 2015 no powers to issue a fine to an employee who fails to meet the requirements for language proficiency in the state language.

According to another amendment to the Language Act, the Language Inspectorate is of 1 July 2015 competent to check the compliance of the activities of the owner of the in-service training institution conducting the Estonian language in-service training for preparation for the Estonian language proficiency examination with the requirements provided for in the Act and the legislation established on the basis thereof.

**Article 12 of the Framework Convention
Equal opportunities in access to education for persons belonging to national minorities
and intercultural dialogue**

Paragraph 81

Regarding the celebration of the Orthodox Christmas, it is necessary to correct and supplement information provided in the Opinion with the following. The timing and duration of school holidays in Estonia is regulated by the Basic Schools and Upper Secondary Schools Act. According to Section 24 (7) of the Act the Minister of Education and Research will establish school holidays. In 2015 the dates of the winter holiday are 23rd December until 10th January, so the Orthodox Christmas celebration time falls within the holiday. The winter holiday is two weeks long and always begins with 23rd December, so the dates established by the Minister might also fall differently depending on the year. According to the Constitution of the Republic of Estonia there is no state church in Estonia, which means that public schools must maintain religious neutrality – the regulation of the Minister is based on that principle. However, these dates are not binding for schools. On the basis of a proposal of the head of the school and with the approval of the board of trustees, the owner of a school may establish school holidays different from those established by the Minister. The only precondition is that during the academic year there must be at least four school holidays with a total duration of at least 12 weeks, whereby the summer holiday lasts at least eight consecutive weeks. So the heads of the school where there are many students with a specific religious or cultural background is free to establish collective holidays differently than those established by the minister. Thus, it is always possible to have individual agreements between a school and a student and his/her family if there is such need.

The Chancellor of Justice accepted the application of the Legal Information Centre for Human Rights for substantial proceedings, but came after thorough analysis to a conclusion that the current legislation is in the conformity with the constitution and laws. The Chancellor of Justice explained to the applicant that according to the Constitution of the Republic of Estonia § 40 there is no state church in Estonia, which means that the public schools must maintain religious neutrality.

**Article 15 of the Framework Convention
Consultative bodies and participation in public affairs**

Paragraph 93

We would like to point out that although the Round Table ceased to exist in 2011 because of economic redress and lack of financial resources, the members of the Round Table of National Minorities were still involved in different activities and discussions of the Estonian Cooperation Assembly until 2015. In October 2014, the Cultural Advisory Board of National Minorities was established at the Ministry of Culture to promote cultural life and activities of the national minorities in Estonia. The Board also advises on the implementation of integration policy.

Effective participation in economic life

Paragraphs 100-104

We would like to clarify that the unemployment rate has decreased markedly since 2010 in Estonia. While it reached a record high at 16,7% in 2010, it dropped to 7,4% in 2014. At the same time, the unemployment rate in the Ida-Viru County has decreased from 25,6% to 13,7% between 2010 and 2014. It is evident from the foregoing that although the unemployment rate in the Ida-Viru County has decreased significantly, it still remains higher than the rate across the board.

Further, the required level of Estonian language proficiency depends on the type of interaction with the public. Still, studies also show that unemployment in the Ida-Viru County is exacerbated by the lack of vacancies and low mobility rather than language proficiency alone. Indeed, most of the employers in the Ida-Viru County speak Russian and the work itself requires the knowledge of Russian. Insufficient proficiency of Estonian significantly hinders the possibilities of workers to apply for vacancies outside the Ida-Viru County.