

Estonia

IHF FOCUS: elections; judicial system and independence of the judiciary; torture, ill-treatment and police misconduct; conditions in detention facilities and detainees' rights; religious intolerance; national and ethnic minorities; citizenship; asylum seekers and immigrants.

During the year a new round of local elections took place and gave all permanent residents an opportunity to express their free will regarding the conduct of political affairs in the country.

In a positive development, a new Courts Act introduced a number of provisions to strengthen judges' independence from the government. However, these provisions are yet to be effectively implemented.

The findings of a visit to the country in 1999 by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (CPT) were published and they highlighted a number of concerns regarding detention conditions and treatment of detainees. These concerns included a lack of sufficient safeguards against ill-treatment. In a case dating back to 2000, it was disclosed that two convictions for murder had been handed out on the basis of coerced confessions.

The official aim of the government's minority policy was to facilitate integration of national minorities into Estonian society. The government also appeared increasingly willing to opt for pragmatic solutions, as indicated by the decision to allow upper secondary schools to continue to offer full-time instruction in a minority language beyond the previously established deadline of 2007. However, the integration policies had a rather narrow focus and continued to be complicated by the high rate of non-citizens among the members of the country's national minorities.

Immigration continued to be limited to an annual quota and the asylum process did not provide sufficient safeguards against forcible return to persecution. In a positive development, following a decade of legal controversy the authorities finally registered the Estonian Orthodox Church. In a legal case related to forceful deportations during the Soviet era, a KGB officer was convicted for crimes against humanity.

Elections

On October 20, local elections took place throughout the country. A total of 15,176 candidates were competing for 3,273 seats in 241 local government councils. Over 70% of the candidates were aligned with a political party, while the rest were running for electoral alliances or as independents.¹ The voter turnout was 52.4 %, which was a slightly higher rate than in the two previous local elections in 1999 and 1996.² The elections were free and fair.

The three parties that scored the best results in the elections were the two government parties, the Reform Party and the Centre Party, and the centrist Res Publica, which was formed only in late 2001. This party has advocated more conciliatory policies toward the country's national minorities.³ It has, *inter alia*, proposed that the requirement that persons

¹ RFE/RL Newline, September 19, 2002.

² RFE/RL Newline, October 21, 2002.

³ Ibid.

wishing to naturalize must pass Estonian language tests be abolished for non-citizens who have resided in the country since independence.⁴

By law, non-citizens permanently residing in the country had the right to run and vote in local elections. Following a legislative amendment in 2001, candidates were no longer required to possess a certain level of proficiency in Estonian.⁵

Judicial System and Independence of the Judiciary⁶

During the year two new laws affecting the judiciary were adopted: a Judicial Review Act and a new Courts Act.

The Judicial Review Act, which was passed in June, granted the Supreme Court the authority to review parliamentary and presidential resolutions as well as decisions on appointments. The Supreme Court had previously already had jurisdiction to review legislation. The law was considered a positive step toward improving the position of the judicial branch.

The new Courts Act, which was passed in June, introduced a number of amendments that are aimed at increasing judges' independence from the executive branch.

The Ministry of Interior retained primary responsibility for the administration of the judiciary. However, it now had to obtain approval from a special court administration council, which was composed of judges and other persons from outside the executive branch, when it decided on several key issues. The administration council's consent was needed, *inter alia*, for decisions on court rules, the territorial jurisdiction of courts and the appointment and removal of court presidents.

Moreover, the power to initiate disciplinary proceedings against judges was transferred from the minister of justice to court presidents and the legal chancellor. This measure enhanced the independence of judges by eliminating the possibility that they might be disciplined for politically motivated reasons.

Judges were also granted a considerable salary increase, amounting to up to five times the salary they had previously received. This increase placed judges on an equal footing with other state officials and high-level civil servants and strengthened their economic independence.

While all these amendments were positive it remained unclear at the time of writing whether they would be effectively implemented. The new law also failed to solve one of the major problems regarding the independence of the judiciary: the executive branch continued to enjoy wide discretion regarding the funding and finances of district and local courts.

Torture, Ill-treatment and Police Misconduct

In October, the Estonian government eventually allowed the CPT to publish reports on its findings made during two visits to the country in 1997 and 1999.⁷ During its 1999 visit

⁴ RFE/RL Newswire, July 15, 2002.

⁵ See IHF, *Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America. Report 2002 (Events of 2001)*, at www.ihf-hr.org

⁶ This section is based on Open Society Institute, *EU Accession Monitoring Programme, Judicial Capacity in Estonia 2002*, at http://ftp.osi.hu/euaccession/2002_j_estonia.pdf.

the CPT found that police treatment of detainees had improved greatly since 1997, although considerable concerns remained (see also Conditions in Detention Facilities and Detainees' Rights).

Following its 1999 visit the CPT also had specifically requested information from the Estonian government regarding complaints of police ill-treatment and investigations conducted into such complaints.⁸ In its response, the government provided statistics according to which 67 investigations regarding alleged violent behavior of police officers were undertaken in 1999. In 18 of these cases disciplinary sanctions were imposed, and seven cases were remitted for criminal investigations.⁹

Reports received in 2002 indicated that verbal abuse and excessive use of physical force by police remained a persisting problem.¹⁰ One reported case of police abuse raised serious concern regarding the manner in which prosecutors and courts deal with allegations of torture by suspects:

- In March, two brothers serving lengthy prison sentences on murder charges were released after it was revealed that the charges against them were false and that they had been coerced into confessing their guilt. Following an investigation characterized by serious deficiencies and conflicting evidence, the two men were convicted to more than ten years in prison for murdering an elderly woman in May 2000. Already during the investigation they complained to the public prosecutor that police had subjected them to torture whilst interrogating them. They alleged that police had, *inter alia*, beaten and kicked them, held plastic bags over their heads and applied electric shocks to them. As a result of the torture, they had agreed to sign statements pledging guilty to murder. The torture allegations of the two brothers were supported by the results of a medical examination that had been undertaken the day after they signed their confessions: these indicated that the men had swellings and traces of torture on their chests. However, the public prosecutor refused to consider the complaint, and told the two men – who were drunkards and had lived a socially alienated life – that they were lying. During the trial the court also failed to take into account the allegations of torture and subsequently the Supreme Court decided against allowing the two brothers to appeal the verdict. In August 2000 two other men were reportedly identified as the perpetrators of the 1999 murder. However, only 19 months later a court decision was issued to release the two brothers. The court awarded each of the brothers 320,000 Kroons (approximately €20,500) compensation. Whilst re-investigating the case the security police found evidence that the two brothers had been tortured, but did not make any conclusions as to by whom. In December the re-investigation was closed.¹¹

Conditions in Detention Facilities and Detainees' Rights

⁷ European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT), "Council of Europe Anti-torture Committee publishes reports on Estonia," October 30, 2002.

⁸ CPT, *Report to the Estonian Government on the visit to Estonia carried out by the CPT from 15 to 21 December 1999*, October 30, 2002, at www.cpt.coe.int/en/reports/inf2002-28en.pdf.

⁹ CPT, *Response of the Estonian Government to the report of the CPT on its visit to Estonia from 15 to 21 December 1999*, October 30, 2002, at www.cpt.coe.int/en/reports/inf2002-29en.pdf.

¹⁰ European Commission, *Regular Report on Estonia's Progress Toward Accession*, October 2002, at http://europe.eu.int/comm/enlargement/report2002/ee_en.pdf.

¹¹ *Eesti Ekspress*, February 13, 2003.

During its visit to Estonia in 1999, the CPT found that in many detention facilities the cells were scantily equipped, dirty and insufficiently lit and ventilated. At times the cells were also overcrowded. The CPT recommended that these facilities either be entirely renovated or closed.¹² In its response to the CPT report, the Estonian government stated that it planned to renovate a number of old detention facilities.¹³

Moreover, the CPT expressed concern that detainees were sometimes not given adequate amounts of food, were often not provided with basic hygiene items, such as toilet paper, and were not always allowed to take hot showers every week. As a rule, detainees were offered only few activities and were in some cases not granted the opportunity to daily outdoor exercise or to have access to reading material. The CPT also found that access to health care was frequently limited for detainees.¹⁴

As regards safeguards against ill-treatment, the CPT was concerned that the right of detainees to notify a third party about their arrest could be delayed on vaguely formulated grounds and that no systematic procedure for informing detainees of their rights upon arrest existed. In addition, the CPT deplored that no code of conduct regarding police interviews existed and that *habeas corpus* (the right of a detainee to be brought promptly before a judge to decide on the legality of his/her detention) was not fully ensured for detainees in respect of whom an extension of the period of detention beyond 48 hours was sought. Thus, the CPT reiterated its recommendations from 1997 that these shortcomings be immediately remedied.¹⁵

Religious Intolerance

In 2001 the then president, Lennart Meri, vetoed a new Church and Congregations Law due to a provision that banned registration of religious communities that were led from abroad. This provision would have made it impossible for the Estonian Orthodox Church, which is subordinated to the Moscow Patriarchate, to obtain legal status.¹⁶

In February an amended version of the new law, which no longer contained the controversial provision, was passed by the parliament. It was subsequently signed by President Ruutel and entered into force on July 1. The major effect of the final version of the new law was to transfer authority to register religious communities from the government to courts.¹⁷

However, already in April the Ministry of Interior announced that it had granted the Estonian Orthodox Church registration. This decision put an end to the legal limbo in which the church had operated since 1993. The registration enabled the Estonian Orthodox Church to enter into contracts as a community and to receive government funding for maintenance costs and social projects.¹⁸

¹² CPT, *Report to the Estonian Government on the visit to Estonia carried out by the CPT from 15 to 21 December 1999*, October 30, 2002.

¹³ CPT, *Response of the Estonian Government to the report of the CPT on its visit to Estonia from 15 to 21 December 1999*, October 30, 2002.

¹⁴ CPT, *Report to the Estonian Government on the visit to Estonia carried out by the CPT from 15 to 21 December 1999*, October 30, 2002.

¹⁵ *Ibid.*

¹⁶ For more information see IHF, *op.cit.*

¹⁷ Keston Institute, *Keston News Service* (Felix Corley), "Estonia: Registration Transferred from Interior Ministry to Courts," July 4, 2002.

¹⁸ Keston Institute, *Keston News Service* (Felix Corley), "Estonia: Moscow Orthodox Church Finally Registered," from, July 4, 2002.

National and Ethnic Minorities¹⁹

During the last few years, policies toward national minorities have developed in a positive direction in Estonia, as the emphasis has increasingly shifted from assimilation to integration. A number of legislative amendments have been made to remedy provisions excessively restricting rights of minority members, and in 2000 an unprecedented integration program was adopted. This development has also been acknowledged by several international bodies. For example, in 2002, the Committee of Ministers of the Council of Europe commended the Estonian government for its efforts “to improve intercultural dialogue,”²⁰ while the UN Committee on the Elimination of Racial Discrimination (CERD) expressed its appreciation of “the increasing debate about and recognition of the multicultural nature of society” in the country.²¹

However, despite progress, considerable problems remained in 2002. Like in previous years, a great proportion of the country’s large community of Russian-speakers did not have citizenship. This seriously limited their opportunities to integrate. Moreover, while integration was primarily promoted through knowledge of the Estonian language, the use of minority languages was still unduly limited in several respects. A wholistic approach towards minority protection, whereby the distinct needs and interests of national minorities would be taken into account in all relevant policy areas, was also still lacking. The need for a revision of the 1993 Law on Cultural Autonomy of National Minorities remained acute. This law has been criticized for its narrow definition of national minorities²² and for placing the primary responsibility for safeguarding the cultural rights of minorities on minority organizations.

*Integration Program*²³

As in the previous year, the emphasis of the state integration program, which covers the period 2000-2007, was placed on supporting education in the Estonian language to Russian-speaking students and adults. However, at the same time, other aspects of the program did not receive proper attention. For example, there were only few concrete projects aimed at promoting integration of minorities in the legal, political and socio-economic spheres. Thus, while minority representatives found that the introduction of the integration program was a groundbreaking achievement in itself, they called for a more balanced implementation in order to effectively counter barriers to integration in different walks of life.

The integration program also requests local governments to put in place their own programs to promote integration. However, as of late 2002, only the local administration in Tallinn had initiated such a program and had not yet started implementing it.

*Language*²⁴

¹⁹ See also Elections.

²⁰ Committee of Ministers of the Council of Europe, *Resolution ResCMN (2002)8 on the implementation of the Framework Convention for National Minorities by Estonia*, June 2002.

²¹ *Concluding Observations of the UN Committee on the Elimination of Racial Discrimination (CERD): Estonia*, November 1, 2002.

²² The law grants the right to exercise cultural autonomy to persons belonging to the country’s German, Russian, Swedish and Jewish minorities as well as to persons belonging to national minorities with more than 3,000 members. Only citizens of the country are recognized as minority members. See Law on Cultural Autonomy for National Minorities, 1993, at

www.minelres.lv/NationalLegislation/Estonia/Estonia_KultAut_English.htm.

²³ Based on Open Society Institute, *EU Accession Monitoring Programme, Minority Protection in Estonia 2002*.

²⁴ *Ibid*; and European Commission, *op.cit*.

By law, public administration employees as well as a number of employees in the private sector were required to possess a certain level of proficiency in Estonian. These requirements were based on the principle of "justified public interest," which has been criticized as ambiguous. In particular, concern has been raised that the requirements applying to private sector employees may result in discrimination against non-Estonian speakers.²⁵

In 2002 the CERD amongst others criticized the language requirements. This committee also asked the Estonian government to provide information detailing the relationship between language skills, ethnic background and employment in the country.²⁶

The Basic School and Upper Secondary Schools Act, which was initially adopted in 1993, provided that Estonian be used as the primary language of instruction in all upper secondary schools by 2007. However, in March, the law was amended so as to allow for exceptions to this rule. In line with these amendments, a minority language can continue to be used a full-time language of instruction beyond 2007.

The use of minority languages at local administration level remained restricted by law. However, in practice Russian was commonly used in places with Russian-speaking majorities. The requirement that all public signs, announcements, notices and advertisements be in Estonian – including in areas with a compact non-Estonian settlement – remained in place.

Intolerance and Racial Discrimination²⁷

The Estonian Constitution prohibits discrimination on the basis of race or nationality, but as of late 2002 comprehensive legislation to implement these provisions were still lacking. The government was reportedly preparing a new Equality Act in order to bring Estonian legislation in line with the EU Race Equality Directive. The new law would address both direct and indirect forms of discrimination in a number of sectors, including education, employment, social security, health care and access to public services.

Also as required by the EU Race Equality Directive, a legal chancellor (national ombudsperson) had already been established to monitor developments with a view to tracking discriminatory practices and to receive complaints of discrimination. The legal chancellor was based in Tallinn but also had several branch offices. Three branch offices were located in Northeast Estonia, which has a compact Russian-speaking settlement.

The number of complaints received by the ombudsperson increased from 1,533 in 2000 to 2,530 in 2001. However, the CERD was concerned that the limited availability of remedies against discrimination may discourage people experiencing discriminatory treatment from filing complaints.²⁸ According to a 2001 survey, 37% of non-Estonians had experienced discrimination or knew somebody who had experienced discrimination in the past two years.

Citizenship

²⁵ See IHF, op.cit.

²⁶ *Concluding Observations of the CERD: Estonia*, November 1, 2002.

²⁷ Based on Open Society Institute, *EU Accession Monitoring Programme, Minority Protection in Estonia 2002*; and European Commission, *Regular Report on Estonia's Progress Toward Accession*, October 2002.

²⁸ *Concluding Observations of the CERD: Estonia*, November 1, 2002.

The rate of naturalization remained low. As of late 2002, a total of some 117,000 persons had obtained citizenship since the entry into force of the Citizenship Act in 1992. Out of the country's 1,37 million population, almost 20% were still non-citizens, a majority of whom were Russian-speakers. While about 7% were citizens of other countries (primarily Russia), about 13% were stateless. Most non-citizens had been granted permanent or temporary residence permits. According to new estimations, the number of non-citizens residing illegally in the country was about 10,000.²⁹

In a positive development, naturalization was made easier for students graduating from upper secondary school in January. These were no longer required to take the exam in civics when they went through the naturalization procedure. However, as noted by several international bodies,³⁰ more measures were needed to inform non-citizens about the naturalization procedure as well as to encourage them to regularize their status. For example, while expressing concern about the "very high" number of stateless persons that resided in Estonia, the CERD recommended that the Estonian government undertake "a thorough investigation into possible barriers which may exist, both in terms of the naturalization procedure and in relation to lack of motivation to apply for citizenship."³¹

It was also criticized that non-citizens were deprived of certain rights, which did not appear justifiably to be tied to citizenship. Among these rights was the right to belong to a political party.

Asylum Seekers and Immigrants

The 1993 Aliens Act provided that annual immigration was not allowed to exceed a number equivalent to 0.05 percent of the country's citizens and permanent residents. Accordingly, the number of available residence permits was limited to 665 in 2002. Citizens of the EU, EFTA, USA and Japan were exempted from the immigration quota. In line with a 2000 Supreme Court ruling, the immigration quota was also not applied to persons wishing to re-unite with family members who were citizens or permanent residents of Estonia. In June the Aliens Act was amended so as to reflect this new practice.³² In 2001, the Law on the Obligation to Leave the Country and Refusal of Entry had already been amended correspondingly.³³

A number of problematic features of the asylum process remained in place. Among these were strict interpretations of the concepts of "safe third country" and "manifestly unfounded applications."³⁴ Throughout the period of independence the number of asylum applications has been low. As of the end of 2001, 20 asylum applications were pending.³⁵

²⁹ Based on European Commission, *op.cit.*

³⁰ These included the European Commission, the Committee of Ministers of the Council of Europe and the UN Committee on the Elimination of Racial Discrimination.

³¹ *Concluding Observations of the UN Committee on the Elimination of Racial Discrimination: Estonia*, November 1, 2002.

³² European Commission, *op.cit.*

³³ Information from Legal Information Centre for Human Rights, Vadim Ploeshchuk, "‘Illegals’ in Estonia: Final Solution?" July 16, 2001.

³⁴ European Commission, *op.cit.*

³⁵ UNHCR, *Statistics on Asylum and Refugee Status Determination*, June 2002.