

Estonia

IHF FOCUS: Protection of ethnic minorities; freedom of expression and the media; ill-treatment and misconduct by law enforcement officials; conditions in prisons and detention facilities.

Most human rights concerns recorded by the IHF in Estonia in 1999 were related to the status of the non-Estonian population. In addition, cases of police misconduct were reported and prison conditions remained poor.

Protection of Ethnic Minorities

In 1999, minorities made up nearly 37 percent of Estonia's population, approximately 29 percent of which was Russian speaking.¹ According to the Citizenship and Migration Department, there were more than 50,000 former permanent residents of Russian origin who stayed in Estonia illegally.²

Estonia considered itself to be a non-immigration, or minimal immigration, country. Article 6, section 1, of the law on aliens restricted the number of immigrants to 0.05 percent of the population with permanent residence in Estonia.³ In 1999, the quota permitted the immigration of 593 people; in 2000, the quota would permit the immigration of 610 people, of which 17 permissions had already been granted in 1999.⁴

The Russian speaking minority was poorly represented in political and economic life. In the 101-member parliament elected in 1999, the Russian minority only had six representatives,⁵ although such a statement

was somehow misleading, as there were Russian representatives in other parties. On the other hand, it must be noted that of the 29 percent of Russian citizens, only those who had been naturalized, i.e. about 100,000 persons (roughly 30 percent), were entitled to vote in the national elections. In the local and state administration, Russians had 19 and 16 percent representation respectively, as non-citizens were entitled to vote in such elections if they had a residence permit for more than five years and had stayed in the same municipality for the last five years. Minority representatives continued allegations of discrimination in jobs and housing, due to Estonian language requirements. The examination fee for language tests was 15 percent of the minimum monthly wage.⁶

There were complaints about the slow pace at which the government processed residence applications for some 19,000 Russian military pensioners. The process was complicated by the lack of Russian-provided passports in which to affix the permits.⁷ On 21 September, the Estonian government changed the rules governing residence permits and visas which, in part, affected the former Soviet military personnel deemed "dangerous" for Estonian independence. Four hundred former Soviet officers who were granted US-funded apartments in Russia did not receive a permit to stay in Estonia. The changes were to come into effect on 1 October.⁸

By September, out of 19,000 applications, the government had issued 17,000 temporary residence permits to retired Russian

¹ U.S. Department of State, *Human Rights Report for 1999*.

² Vadim Polestuk, "National Minorities in the Printed Mass Media of Estonia," *Legal Information Centre for Human Rights, 1999*.

³ Before 1st of January 1998, the annual quota was 0,1 percent.

⁴ Reports to the IHF.

⁵ U.S. Department of State, *op.cit.*

⁶ *Ibid.*

⁷ RFE/RL, *Newsline 22 September 1999*.

⁸ *Ibid.*

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servicemen. By the year's end, approximately 216,000 persons had applied for alien passports and 190 passports had been issued.⁹

Law on Aliens and Family Reunification¹⁰

Spouses or other close relatives of Estonian residents faced great difficulties in obtaining a residence permit under Estonian law. The main legal restriction was the very small annual immigration quota (ca. 600 people per annum). This quota restricted the number of residence permits that Estonian authorities could issue to residents of other countries, and to residents of Estonia who had come to Estonia after 1 July 1990, or had temporarily lost their residence permits or registration (*propiska*) after 1 July 1990. The immigration quota also applied to applications related to family-reunification.

The overall number of unresolved cases was difficult to estimate, as many people who were directly affected by these rules stopped submitting applications for residence permits. Only spouses of Estonian citizens, residing in Estonia, could apply within Estonia at the desk of the Citizenship and Migration Board (CMB) for an amount totaling 420 EEK (U.S.\$ 26). When submitting the application to an Estonian consulate or embassy, the application fee was 2,500 EEK (U.S.\$ 150). It cost an additional 2,500 EEK to apply for a work permit. Due to the changes in the State Fee Act, the fee was not refunded if the application was rejected after 1 January 1998. Further, the same fee had to be repaid for any subsequent applications. In the event of a successful application, an additional 850 EEK (U.S.\$ 53) was charged for the passport sticker.

Despite this, many families managed to live together illegally; for example by

overstaying the duration of the tourist visa. Most of these people did not contact any governmental agencies because there was no direct possibility of legalizing their stay in Estonia, and because they would be subject to orders to leave the country or even physical deportation.

These issues were all governed by the Estonian law on aliens. However, the Estonian constitution also had some impact on this legal question, as articles 26 and 27 guaranteed the right to family life and forbid state interference in that sphere. In two separate trials in November and December 1999, the Administrative Court ruled that the current quota system was not in compliance either with the Estonian constitution or with the articles 8 and 12 of the European Convention on Human Rights. The decisions have been successfully appealed by the CMB, and both cases have been submitted to the Supreme Court in Tartu. Similar decisions were made in about 10 additional cases.

After the first reading of the amendments in December 1998, spouses and other family members were not included in the quota. But the constitutional commission of the Riigikogu (parliament) removed this stipulation. On 17 November 1999, the Riigikogu voted not to adopt a proposal that would exclude spouses, minor children of Estonian citizens, and Estonian holders of a valid residence permit from the immigration quota. At the time of this writing, no decision had yet been made with regard to the proposed amendments. A decree by the ministry of the interior on 3 March 2000 clarified that 260 spouses of Estonian citizens, 26 spouses of European Union nationals (who were not EU-nationals themselves) and 40 spouses of stateless or other nationals residing in Estonia, would receive residence permits through the yearly quota. Some additional 164 res-

⁹ U.S. Department of State, *op.cit.*

¹⁰ Based on reports to the IHF.

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idence permits were foreseen for other relatives of Estonian residents.

The changes to the law on aliens, which came into effect on 1 October 1999, only exempted from the quota persons who had entered the country before 1 July 1990. Anyone who married after June 1990 fell within the quota. It was difficult to estimate how many rejected applications concerned family reunions, but the number was believed to be quite high.

Another problem was the duration of the application process. By law, the decision of granting a residence permit was to be made within one year. All applications that were submitted after 1 November were counted in the annual quota of the subsequent year. Once the quota was exhausted, all applications were simply rejected. The application process normally took up to one year. In some cases, the applicant was informed of the decision three months after it had been made. The CMB explained this by citing internal problems, stemming from a lack of organization.

It was possible to appeal the decisions of the CMB within 30 days. The applicant was not informed of this option in the decision itself, although it followed from the law on administrative procedure. Since February 2000, notification of the possibility to appeal has been given in some decisions.

■ On 13 December, a court in Tallinn ruled in favor of the plaintiff S. Kopõlova, who had filed charges against the CMB after having been refused a residence permit to stay with her husband, a resident of Estonia. On 23 August 1999, the CMB refused to grant S. Kopõlova a resident permit, which she had applied for in September 1998, due to the consummation of the annual immigration quota, in accordance with article 12(6) of the aliens act. The

court held that the rejection of the residence permit had illegally violated S. Kopõlova's right to a family life. Under the law, persons without a residence permit were considered to be staying in Estonia illegally, and, consequently, may be banished from the country. Such a situation would render the cohabitation of a family impossible and further endanger its preservation. Further, insofar as it interfered directly with private and family life, it would be contrary to article 26 of the constitution and article 8(2) of the ECHR. There was no proof that the Kopõlov family had in any way threatened national security, public safety or the Estonian economy.¹¹

The quota system could also be interpreted as contradicting OSCE obligations, as a fixed annual immigration quota did not leave any room for humanitarian considerations as stated in the Helsinki Final Act.¹²

An additional problem for many applicants was the renewal of an application after rejection.

Following governmental Decree No. 368 from 7 December 1995, and its successor No. 362 of 23 November 1999, the applicant was required to submit all documents anew. He could not refer to the earlier submitted documents, which were kept in the CMB archives, because the CMB argued that the documents could not be removed. In addition, the applicant had to pay a fee for every new application.

Law on Language

Estonia has ratified the Framework Convention on National Minorities (FCNM), but no provisions were foreseen in the law on language concerning the use of minority languages. According to the U.S. State Department, the law on language prohibited the use of any foreign language on any

¹¹ Court order, Tallinn, 13 December 1999, Administrative Case No. 3-2077/9.

¹² Helsinki Final Act, 1b on Reunification of Families.

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public signs, advertisements and notices, including election posters. However, the government has played a key role in encouraging Russian language programs on state television.¹³

In a letter from the OSCE High Commissioner on Minorities to the Estonian foreign minister, concerns were raised with regard to certain amendments to the language law that were adopted in July. In violation of article 10 of the ECHR, one amendment to article 1 seemed to imply that workers in the private sector had to pass a language test in order to get a job. The ECHR, however, stated that this could only be required in areas of public security, public safety and public health. Furthermore, one amendment to the laws on parliamentary and local elections and state language stated that "knowledge of written and spoken Estonian" was a prerequisite for membership in parliament or a local council. This amendment was in violation of article 25 of the ICCPR, which stated there shall be no distinction regarding language as a condition for citizens to stand for office.¹⁴

Freedom of Expression and the Media

It was alleged that the Estonian-language press often created negative stereotypes of the Russian-speaking minority. Some newspapers used racist and xenophobic expressions in their description of national minorities, and there have been cases of the defamation of Russian community leaders.¹⁵

A case from 1997, in which a journalist was tried and convicted for insulting the

spouse of a prominent politician, was still pending at the European Court of Human Rights at the end of 1999.

Torture, Ill-Treatment and Misconduct by Law Enforcement Officers

There were credible reports that police used excessive force and verbal abuse during the arrest and questioning of suspects. Punishment cells (*kartsers*) continued to be used, in contravention with international standards.¹⁶

Conditions in Prisons and Detention Facilities

Prison conditions remained poor, although there were some improvements. The main problems included a lack of funds and trained staff. The percentage of prisoners suffering from tuberculosis was higher than in the rest of the population. Work and study opportunities increased slightly as the government implemented new programs.¹⁷

■ Some 100 people in pre-trial detention at Tallinn prison began a hunger strike on 1 December, demanding greater telephone privileges, the use of audio and video recorders (in addition to the already permitted television and radio), and an increased supply of coffee and cigarettes. The director of the prison department described the action as "blackmail", and said that the inmates had used fake phone cards or otherwise tampered their calls to avoid paying normal charges. The damages caused to Eesti Telefon allegedly amounted to an annual equivalent of hundreds of thousands of US dollars.¹⁸ ■

¹³ U.S. Department of State, *op.cit.*

¹⁴ Recommendations of the OSCE High Commissioner on National Minorities, 26 March 1999.

¹⁵ Vadim Polestuk, *op.cit.*

¹⁶ U.S. Department of State, *op.cit.*

¹⁷ *Ibid.*

¹⁸ RFE/RL Newsline, 2 December 1999.