



**LEGAL INFORMATION CENTRE
FOR HUMAN RIGHTS**

**ESTONIAN MINORITY POPULATION
AND NON-DISCRIMINATION**

Report

2006

Vadim Poleshchuk

Tallinn

Estonian minority population and non-discrimination

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Legal Information Centre for Human Rights

ISBN 978-9985-9542-5-6

ISBN 9985-9542-5-4

LICHR

The Legal Information Centre for Human Rights (LICHR) was created as a non-governmental and non-profit organisation on 2 May 1994. Intimately involved in the setting up and consolidation of the LICHR were various non-governmental organisations of Denmark and Estonia. The LICHR was founded to promote constructive dialog and to enhance the awareness about human rights in Estonian society. The basic activities of the LICHR are free legal counselling, collection, analysis and dissemination of human and minority rights related information.

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PRELIMINARY NOTES

The report of the Legal Information Centre for Human Rights *Estonian minority population and non-discrimination* shall give an overview of the situation of ethnic non-Estonians as of 15 July 2006. Our task was to address the most challenging problems of minority members with and without Estonian citizenship while special emphasis was made on the problems of non-discrimination. The report is prepared for the 69th session of the Committee on the Elimination of Racial Discrimination (CERD), 31 July – 18 August 2006, Geneva.

In drafting this report, the author has tried to avoid unnecessary duplication of data provided in the 7th periodic report submitted by Estonia to the CERD,¹ which included a comprehensive account of positive developments and measures in the field of official ethnic policies. Additionally, the legal status and related problems of the alien population were not addressed in every detail, while its description could be found in Chapter I of the report *Non-citizens in Estonia*, which had been submitted to the CERD by the Legal Information Centre for Human Rights in 2004.

In this report the term ‘non-Estonians’ will refer to both citizens and non-citizens of minority ethnic origin. Additionally, in Estonia the terms ‘an Estonian’ and ‘a Russian’ are the indication of a person’s ethnic origin. ‘Non-citizens’ will refer to all Estonian residents without domestic citizenship. Almost all of them resided on the territory of Estonia before 1991 when the country restored independence (or their descendants). Sometimes, such persons will be specially referred to as ‘Soviet era residents’. The term ‘stateless’ will be used for Soviet era residents who have not any citizenship. Estonian authorities normally call them ‘persons with undefined citizenship’.

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¹ CERD/C/465/Add.1, 1 April 2005.

PART ONE. BACKGROUND INFORMATION

1.1 Basic statistics

1.1.1 Changes in numbers of the minority population

Since the early 1700s Estonia had been a part of the Russian Empire. After the October Revolution (1917) in Russia Estonia became an independent state. The Bolshevik Government recognised Estonian independence in 1920. In 1940 Estonia was made part of the Soviet Union. Its independence was regained in August-September 1991 after the failed August coup d'état in Moscow. According to the official position of Estonian authorities the country was occupied by the Soviets in 1940-41, 1944-91. The Russian Federation believes that Estonia acceded to the Soviet Union in 1940.

There were considerable changes in numbers of the minority population in Estonia in the XX century. According the censuses in 1922 and 1934, ethnic minorities made up 12% of all the population, in 1959 – 25% and in 1989 – 39%. The largest minority group has always been Russians. Their number has increased from 8% in 1922 to 30% in 1989.² A reverse trend was registered after 1991. Thus, according to the 2000 census the number of minorities has dropped to 32%. In March 2000 – January 2005 the share of ethnic Estonians has further increased by 0.6% (Table 1).

² P. Järve and C. Wellmann, *ECMI Baltic Seminar 'Minorities and Majorities in Estonia: Problems of Integration on the Threshold of EU'*, ECMI Report no. 2, Flensburg, 1999, p. 43.

Table 1. Ethnic composition of the population of Estonia in 1989, 2000 and 2005, %³

Ethnic origin	1989*		2000*		2005**	
	N	%	N	%	N	%
Estonians	963,281	61.5	930,219	67.9	922,989	68.5
Russians	474,834	30.3	351,178	25.6	346,339	25.7
Ukrainians	48,271	3.1	29,012	2.1	28,456	2.1
Byelorussians	27,711	1.8	17,241	1.3	16,487	1.2
Finns	16,662	1.1	11,837	0.9	11,080	0.8
Others	34,903	2.2	30,565	2.2	22,159	1.7
Total	1,565,662	100.0	1,370,052	100.0	1,347,510	100.0

* Data of national census (January 1989 and March 2000)

** As of 1 January 2005

As one can see in Table 1, every third Estonian resident belongs to ethnic and national minorities. In 2005 the Russians constitute more than 80% among all minority members.

1.1.2 The problem of citizenship

When Estonia regained independence in 1991, only citizens of the pre-WWII Republic of Estonia or their successors were automatically recognised as citizens. Citizenship was also granted to persons considered eligible under Articles 3 and 4 of the Law on Citizenship (1938) in the pre-war version. Primarily it concerned women who had married citizens of Estonia, even in the Soviet period, and their children, who were under age at the moment the marriage was registered (decision of the Supreme Soviet on application of the Law on Citizenship⁴). According to the data of the Citizenship and Migration Board, in 1992 only 68% of all population were citizens of Estonia. By 2005 their share had considerably increased to 82% (Table 2).

³ Data for 1989 and 2000: Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Tables 7-8. Data for 2005: Statistical Office of Estonia, public database at <http://www.stat.ee>, (01.07.2006).

⁴ RT 1992, 7, 109. RT (*Riigi Teataja*) is the Official Journal of Estonia.

Table 2. Estonian population by citizenship, 1992, 1999, 2003 and 2005, %⁵

	1992	1999	2003	2005
Citizens of Estonia	68	80	81	82
Stateless persons ('persons with undefined citizenship')	32	13	12	10
Citizens of foreign states	---	7	7	8
Total	100	100	100	100

The number of stateless persons who are former Soviet citizens ('persons with undefined citizenship') is relatively large in Estonia. However, in recent years there were positive changes due to migration, naturalisation and natural processes. According to the 2000 national census, their number was 170,349.⁶ As of 1 January 2006, there were 136,000 'persons with undefined citizenship' with valid residence permits.⁷

The largest group of foreign citizens in Estonia are citizens of the Russian Federation, which are mostly former Soviet citizens who have adopted Russian citizenship after 1991 while remaining resident in Estonia. As of 1 January 2006 there were 93,027 Russian citizens residing in Estonia with valid residence permits (38% of all such aliens). The number of citizens of EU, European Economic Zone and Switzerland with valid residence permits was 7,067 (3%).⁸

According to the 2000 national census, 53% of ethnic Russians were born in Estonia and 42% in Russia.⁹ Only 21% of Russian citizens were born in Estonia. However, the majority of stateless people (52%) were born in Estonia.¹⁰

⁵ Citizenship and Migration Board, *Yearbook 2003*, Tallinn, 2003, p. 8; Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 13.

⁶ Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Table 1.

⁷ Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 24.

⁸ Ibid.

⁹ Statistical Office of Estonia, *2000 Population and Housing Census: Place of Birth and Migration, III*, Tallinn, 2002, Table 2.

¹⁰ Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Table 3.

1.1.3 Religious affiliation

According to the 2000 national census, the following faiths have the biggest number of followers in Estonia: Lutheranism (14.8% of all population aged 15 and older) and Orthodox Christianity (13.9%). Ethnic Estonians prevail among Lutherans and Russians and other Eastern Slavs - among Orthodoxies. While Lutheranism has traditionally been the principal religion of Estonians and although most Estonians who declare a religion are now Lutherans, followers of the Orthodox Church constitute about 10% of religious Estonians.¹¹ It is worth mentioning that followers of the Orthodox Church are now separated into two groups, divided largely along ethnic lines: supporters of the Estonian Apostolic Orthodox Church under the Constantinople Patriarchate and supporters of the Estonian Orthodox Church under the Moscow Patriarchate. As one can see in Table 3, ethnic non-Estonians are significantly more religious than Estonians.

Table 3. Estonian population by religious affiliation and ethnic origin, persons aged 15 and older, 2000 national census, % of respondents¹²

Religious affiliation	Total	Estonians	Russians	Other ethnic groups
All respondents	100.0	100.0	100.0	100.0
Follower of a particular faith	31.8	26.3	42.0	46.6
Has no religious affiliation	37.0	41.3	28.8	26.9
Atheist	6.7	5.9	8.5	6.6
Cannot define the affiliation	15.8	16.6	14.5	13.5
Refused to answer	8.7	9.9	6.2	6.4

On 28 June 2004 the Law on Churches and Congregations¹³ was amended¹⁴ to remove any obstacles for registration of religious organisations of the followers of indigenous Estonian paganism (it was permitted to use in the official name of a religious organisation words other than ‘church’, ‘congregation’, ‘association of congregations’ and ‘monastery’/‘convent’). This legal move was also important to promote in the society tolerance towards minor religious groups and communities.

¹¹ People aged 15 and older. Statistical Office of Estonia, *2000 Population and Housing Census, Education and Religion, IY*, Tallinn, 2002, Table 92.

¹² Ibid, Table G.

¹³ See references to official publication of all laws in Annex I.

¹⁴ RT I 2004, 54, 391.

1.1.4 Refugees and asylum-seekers

In Estonia the number of asylum-seekers and refugees is insignificant. The first Law on Refugees was adopted by the parliament in February 1997. At the same time Estonia joined the Convention relating to the Status of Refugees and its Protocol of 31 January 1967. The amendments to the Law on Refugees, which entered into force in May 2003, harmonised Estonian asylum procedures with the relevant EU legislation.¹⁵ However, only four persons were granted the status by January 2006. Additionally ten persons received subsidiary protection status in 1997-2005 (see Table 4). The new Law on Granting International Protection to an Alien is valid in Estonia since 1 July 2006.

Table 4. Decisions concerning asylum in 1997-2005¹⁶

	2005	Total number of decisions since 1997	Total number of decisions (%)
Asylum granted	0	4	4
Subsidiary protection granted	1	10	9
Rejection of asylum application	8	15	14
Refusal	5	49	47
Proceedings terminated or suspended	0	28	26
Total	14	106	100

The research centre Faktum – Ariko Marketing presented on 6 March 2006 the results of the study “The level of awareness and approaches of Estonian residents towards refugees”. The researchers came to the conclusion that Estonian population is rather inexperienced in the refugees-related issues. This might be explained by a very small number of asylum seekers in the country. The majority of respondents demonstrated a positive or neutral approach towards refugees. Nevertheless, 2/3 of them were in support of rather rigid official refugee policies. Considerably more tolerance was claimed regarding (potential) refugees from the Russian Federation and CIS

¹⁵ Citizenship and Migration Board, *Yearbook 2003*, Tallinn, 2003, p. 17-18.

¹⁶ Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 30.

countries¹⁷, North America and Japan. The lowest level of tolerance was registered regarding (potential) refugees from Muslim and African countries.¹⁸

1.2 Ethnic and migration policies

1.2.1 State integration policies

In Estonia state policies on minorities and non-citizens are overlapping, as some 50-60% of minority members do not have Estonian citizenship.¹⁹ Estonian society can be divided into those with Estonian or Russian as their mother tongue.

In the early 1990s Estonian political elite cherished hopes that minority population would leave for Russia or other CIS countries. However, the majority of ethnic non-Estonians decided to stay in Estonia. In 1998 the first integration program was adopted in the country. It was followed by a detailed program “Integration of Estonian Society 2000-2007”.²⁰ The document gives the following description of the integration process (3.2):

The *nature* of the integration of Estonian society is shaped by two processes: on the one hand the social *harmonisation* of society on the basis of knowledge of the Estonian language and the possession of Estonian citizenship, and on the other hand the *enabling of the maintenance of ethnic differences* on the basis of the recognition of the cultural rights of ethnic minorities. The harmonisation of society also means the integration of both Estonians and non-Estonians around a unifying common core (italics of the original – V.P.).

The programme included measures and activities in the framework of four sub-programmes: general education, education and culture of ethnic minorities, teaching adult minorities the Estonian language and social language competence. Regretfully,

¹⁷ CIS is the Commonwealth of Independent States, an international organisation of the former ‘Union republics’ of the URSS (except for Estonia, Latvia and Lithuania).

¹⁸ *Eesti elanike teadlikkus ja hoiakud pagulasteema küsimustes, veebruar 2006*, Arko Marketing, Faktum uuringukeskus. Materials of the presentation on file with the author. The study was conducted in January 2006.

¹⁹ According to the 2000 national census, 60% of all ethnic non-Estonians did not have Estonian citizenship: Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Table 42.

²⁰ See English translation at <http://www.riik.ee/saks/ikomisjon>, (01.07.2006).

the program does not address in any detail the topics of discrimination of ethnic or national minorities.

The Minister of Population Affairs was appointed head of the Steering Committee which oversees the implementation of the 2000 State Integration Program. The members of the committee are the representatives of seven ministries, as well as of the government-founded NGO-like institution, Integration Foundation, and the publicly funded Institute of International and Social Studies. Most of the integration programme funds are allocated to various projects of Estonian language training inside and outside public educational institutions. A considerable portion of the Integration Programme budget was foreign aid²¹. In 2000-2003, various projects of the Integration Program received financial support of ca 225 million Estonian Kroons (EUR 14.4 million) and half of this sum was received from the state budget and another half from Western donors.²² For the years 2004-2007, the sum of ca 300 million Estonian Kroons (EUR 19.2 million) was planned to support different Integration Program activities, including ca 131 million Kroons (EUR 8.4 million) of foreign aid.²³

The implementation of the Integration Program is based on valid legislation. The program does not intend to alter the previous and existing linguistic or naturalisation policies. Rather, it based on them. At the moment the process of drafting a new integration program is initiated by the authorities.

1.2.2 Linguistic policies

The core legal act of Estonian legal policies is the Law on Language (1995). Article 1 (1) of the Law repeats Article 6 of the Constitution that “Estonian is a State language of Estonia”. According to Article 4(1) of the Law, “[e]veryone has the right to access public administration and to communicate in Estonian in state agencies, local self-governments, bureaus of notaries, bailiffs and certified interpreters and translators,

²¹ See details in “Minority Protection in Estonia: An Assessment of the Program Integration in Estonian Society”, in: Open Society Institute, EU Accession Monitoring Program, *Monitoring the EU Accession Process: Minority Protection, Part I*, Budapest, 2002.

²² *Riikliku programmi „Integratsioon Eesti ühiskonnas 2000–2007” rakendamise 2002. aastal*, Aruanne, juuli 2003, p. 86.

²³ *Riikliku programmi „Integratsioon Eesti ühiskonnas 2000–2007” rakendamise 2004. aastal*, Aruanne, juuni 2005, p. 72.

cultural autonomy bodies and institutions, companies, non-profit associations and foundations”. This rule is supported by numerous provisions that regulate the scope and control over use of Estonian in both official and public domain.

In the process of integration a considerable consolidation effect is attributed to the official language. Indeed, Estonian is the main (and in most spheres the only) language of the official communication and of advanced levels of publicly funded education. Nevertheless, the role of Estonian in everyday interethnic communication is still modest. Additionally, Russian may compete with other languages in Estonia even lacking an official status: in some places it dominates the linguistic milieu.

Table 5. Ethnicity, native language and citizenship of the population of Tallinn, Maardu and the biggest towns of the Ida-Viru County, 2000 national census, %²⁴

City	Minority in all population	Native speakers of Russian	Native speakers of Estonian	All speakers of Estonian
Tallinn	46	43	52	74
Maardu	80	75	18	46
Narva	95	93	3	17
Jõhvi	67	63	31	56
Kohtla-Järve	82	80	15	39
Sillamäe	96	94	2	15

According to the 2000 national census, Russian is the mother tongue for 1/3 of all the Estonian population.²⁵ Additionally, 20% of the Estonian population did not have proficiency in the official language.²⁶ The same year the level of proficiency in Estonian for ethnic Russians was 40% (and 59% in the age group 15-19).²⁷ One has to note, however, that the level of proficiency of ethnic Russians has rapidly increased as compared with the late 1980s. According to the 1989 national census only 15% of ethnic Russians could speak Estonian.²⁸

According to the data published in the Integration Monitoring 2005, in 1997-2005 there was no significant change in self-appraisal of ethnic non-Estonians (as a whole

²⁴ Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Tables 12 and 15.

²⁵ Ibid, Table 18.

²⁶ Ibid, Table 15.

²⁷ Ibid, Table 48.

²⁸ Data published in: M. Heidmets (ed.) *Vene küsimus ja Eesti valikud*, Tallinn, 1998, p. 17. However, the 1989 data refer only to those who could speak the Estonian language fluently (the questionnaire of the 1989 national census is on file with the author).

group) regarding their proficiency in the official language. Nevertheless, a positive trend was registered for Estonian citizens of minority origin (especially the young).²⁹

1.2.3 Citizenship policies

In Estonia naturalisation requirements are now stipulated by the Law on Citizenship of 1995. The previous law (valid until 1995) provided only for a language exam. The new law has additionally introduced a civic exam (exam on knowledge of the Estonian Constitution and the Law on Citizenship). Article 6 of the Law enlisted the following basic requirements for an alien who wishes to acquire Estonian citizenship by naturalisation. He or she shall:

- be at least 15 years of age;
- have a long-term resident's residence permit or a right of permanent residence (not applicable to Soviet era residents);
- have stayed in Estonia on the basis of a residence permit or a right of residence for at least eight years, of which last five years permanently, prior to the date on which he or she submits an application for Estonian citizenship;
- have stayed in Estonia legally and permanently on the basis of a long-term resident's residence permit or a right of permanent residence for six months from the day following the date of registration of the application (not applicable to Soviet era residents);
- have a registered place of residence in Estonia;
- have knowledge of the Estonian language in accordance with the requirements provided for in the Law (see Annex II for details);
- have knowledge of the Constitution of the Republic of Estonia and the Law on Citizenship in accordance with the requirements provided for in the Law (see Annex II for details);
- have a permanent legal income which ensures his or her own subsistence and that of his or her dependants;
- be loyal to the Estonian State;

²⁹ I. Pross, "Eestivenelaste keeleoskus ja suhtumine 2007. aasta gümnaasiumireformi", in *Uuringu Integratsiooni monitoring 2005 aruanne*, Tallinn, 2005, p. 22.

- take an oath: “In applying for Estonian citizenship, I swear to be loyal to the constitutional order of Estonia”.

The Law stipulates a simplified procedure for minors under 15 years of age whose parents are going to naturalise or have Estonian citizenship. Since 1999 stateless children of stateless parents can be naturalised according to the similar simplified procedure (see Chapter III of the Law). People born prior 1 January 1930 are exempted from written part of the language exam (Article 34). However, they should pass the written civic exam. Since 2001, a privileged approach is employed for disabled (Article 35). Ten persons per year may be naturalised without exams on the ground of ‘special merits’ (Article 10). A person who received a diploma of an Estonian-language educational institution shall pass only the civic exam (Article 8 (5)).

In 1992-1995, ethnic Estonians could naturalise without a language test. They constitute a large group among those who naturalised on the basis of the previous Law on Citizenship. Minors under 15 year of age are over represented among those who naturalised on the basis of the new Law on Citizenship (1995): The previous Law did not foresee privileges for children of naturalised citizens. In general, the majority of all persons naturalised on the basis of the previous and new citizenship laws did so by simplified procedure without a language test.

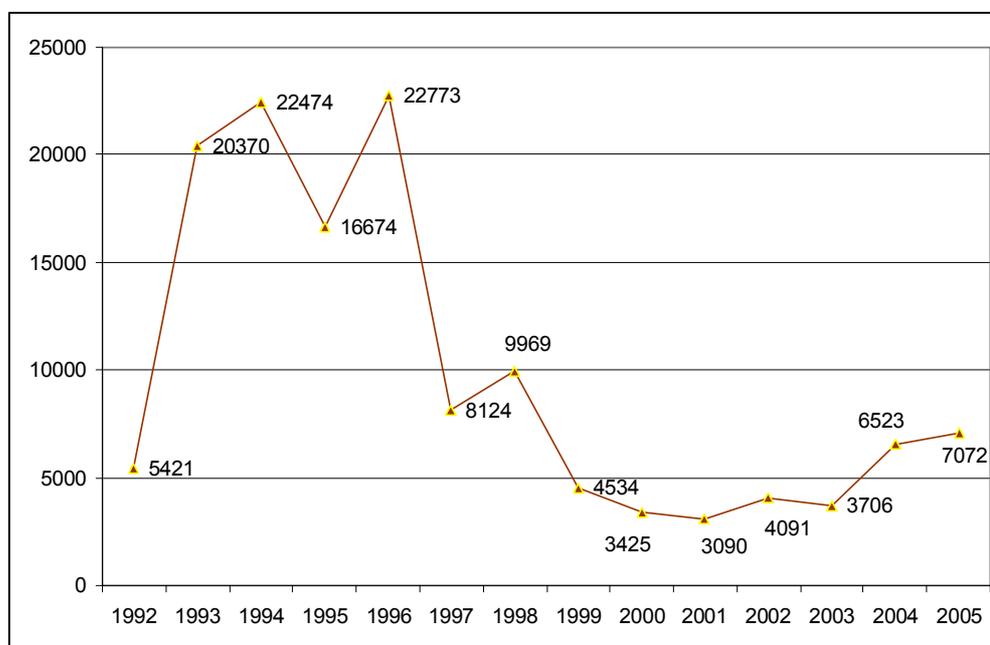
Table 6. Naturalisation in Estonia in 1992 - 2005³⁰

Basis	Period	No	%
On general conditions (with a language certificate or diploma)	1992-	58,016	42.0
Minors under 15 years of age	1992-	29,461	21.3
For special merits	1992-	726	0.5
Aliens who has a certificate of supporting the pro-independence Congress of Estonian citizens (the so-called green card)	1992-95	24,102	17.4
Ethnic Estonians	1992-95	25,293	18.3
Disabled persons	2001-	648	0.5
Total		138,246	100.0

³⁰ Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 20.

The tempo of naturalisation was relatively modest in early 2000s. However, it increased when the country became the member of the European Union (2004). The annual number of naturalised persons peaked in the middle 1990s (Chart 1).

Chart 1. Naturalisation in Estonia in 1992-2005³¹



Since 2000 the Estonian language tests for employees (for any official proficiency level) and the final school language exams (lowest and middle levels) were equated with the naturalisation tests.³² The average pass rate for the test of the lowest proficiency level was quite high in 2002-2004 (see Table 17).

Since 1 January 2004 the state can reimburse up to 100% of the fee paid by a person to a private school holding an education license if he or she passed a language test and test on knowledge of the Constitution and the Law on Citizenship (Article 8¹ of the Law on Citizenship). Partial compensation of expenses for language training was also

³¹ Data of the Citizenship and Migration Board. For 1992-1998: Citizenship and Migration Board, *Yearbook 2003*, Tallinn, 2003, p. 14; for 1999-2005: Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 19.

³² Governmental regulation no. 219 of 30 June 2000 (RT I 2000, 54, 567) and Regulation of the Minister of Education no. 5 of 2 March 2000 (published RTL 2000, 32, 425).

possible in the frame of several projects funded by the Integration Program in previous years.³³

The 2000 national census provides us with the data on Estonian language proficiency of non-citizens. Thus, 19% of the Russian citizens, 32% of stateless persons and 38% of other countries' citizens claimed that they could speak Estonian.³⁴ These figures make us raise a question why people with this language proficiency ignore the naturalisation procedure. Additionally, it is useful to learn how many persons have mentioned that their poor command in Estonian is an obstacle for naturalisation. According to the Integration Monitoring 2002, the Russian citizens and stateless people mentioned the following reasons for not having Estonian citizenship:

Table 7. For what reason have you personally not obtained citizenship yet? By citizenship, 2002, %³⁵

	Stateless persons	Russian citizens
I am already a citizen of another country	---	85
Cannot learn the Estonian language	61	73
Requirements of citizenship exam are humiliating	61	69
Lack of citizenship does not hinder living in Estonia	55	78
Easier to travel to Russia and other CIS states	38	72
Estonia is too small for its citizenship to have any value in the world	21	34
It would be of little use to me and my family	18	44
Do not feel as belonging to Estonia	9	12
Wish to avoid military service in Estonian army	8	3

High-level language requirements, humiliating nature of the exams and absence of demanding practical necessities of naturalisation were the most often mentioned reasons in *all* age groups of non-citizens.³⁶ 95% of stateless persons and 92% of Estonian citizen of non-Estonian origin mentioned their 'wish to gain security to live

³³ "Minority Protection in Estonia: An Assessment of the Program Integration in Estonian Society", in: Open Society Institute, EU Accession Monitoring Program, *Monitoring the EU Accession Process: Minority Protection, Part I*, Budapest, 2002, p. 216-219.

³⁴ Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Table 42.

³⁵ R. Vetik, "About formation of a common foundation in legal-political integration", in K. Hallik (ed.) *Integration of Estonian Society: Monitoring 2002*, Tallinn: Institute of International and Social Studies and Integration Foundation, 2002, p. 62.

³⁶ *Ibid*, p. 61.

in Estonia' answering the question "Why is it important for you personally to have/to obtain Estonian citizenship?"³⁷

According to the Integration Monitoring 2005, the attitudes of different ethnic groups to Estonian citizenship policies were not the same. Sixty per cent of Estonians regarded them as normal and corresponding to international standards. As for ethnic non-Estonians, 70% of them believed that the citizenship policies are rigid and violate human rights.³⁸

1.2.4 Migration policies (third country nationals)

In general, Estonian migration policies in 1990s – early 2000s appear rather rigid. That resulted in a very small number of newcomers. For instance, only 3% (2000) of all residents born abroad arrived in Estonia in 1990-2000.³⁹

Before the EU accession several amendments to the Law on Aliens were adopted by the parliament in order to revise the procedures for issuing residence permits. As a result the procedure was made more complicated. Furthermore, the officials of the Citizenship and Migration Board received additional rights to check aliens at home and at their workplace (see amendments of 18 December 2002⁴⁰ and 14 April 2004⁴¹).

At the same time the expulsion procedure of illegal aliens was made even easier in 2004. According to the Law on Obligation to Leave and Prohibition on Entry, an illegal alien may receive precepts of two types: precept to leave and precept to legalise. Both precepts may be appealed against in the court (Article 13). However, according to the amendment of 9 June 2004⁴², an alien who entered Estonia with a visa and the visa expired may be expelled without issuance of a precept and without the permission of an administrative court (before this date the visa should be expired at least seven days ago - Article 14 (3²)).

³⁷ Ibid, p. 63.

³⁸ K. Hallik, "Kodakondsus ja poliitiline kaasatus", in *Uuringu Integratsiooni Monitooring 2005 Aruanne*, Tallinn, 2005, p. 60-61.

³⁹ Statistical Office of Estonia, *2000 Population and Housing Census: Place of Birth and Migration, III*, Tallinn, 2002, Table 21.

⁴⁰ RT I 2003, 4, 20.

⁴¹ RT I 2004, 28, 189.

⁴² RT I 2004, 53, 369.

Several changes in Estonian migration legislation were made to provide citizens of the EU member states and their family members with special status to meet the requirements of *acquis communautaire* (e.g. the previous Law on Citizen of the EU of 20 November 2002 and changes in the Law on Aliens of 14 April 2004⁴³ and the new Law on Citizen of the EU of 17 May 2006). According to the relatively recent amendments⁴⁴ to the Law on Public Service and according to the new Law on Election of Local Self-government Council, citizens of the EU member states now enjoy the right of passive suffrage at local elections and the right to work under certain circumstances as public officials. The majority of minority members do not have the same rights being stateless persons or Russian citizens.

The Law on Aliens (Article 6) provides for an annual migration quota. In 2000, the National Court recognised⁴⁵ that this quota may under certain circumstances violate the right to private and family life. As a result the parliament had to make several changes in the text of the law: It excluded from the application of the quota the members of families and close relatives of Estonian citizens and aliens with residence permits. Additionally, the current version of Article 6 of the Law on Aliens (valid since 1 May 2004⁴⁶) established a preferential treatment for citizens of the US and Japan: The annual migration quota will not be applied to them in any case. These preferences were preserved from the previous version of this provision that was rightfully criticised by the international community (see e.g. the CERD observations of 19 April 2000⁴⁷).

In 2004 visa provisions of the Law on Aliens were amended⁴⁸ to the effect that no denials to grant a visa should be explained to an applicant. Before 1 May 2004 a relevant provision could be found on the level of the governmental decree, not law. While similar rules are widespread internationally, they make it quite difficult to

⁴³ RT I 2004, 28, 189.

⁴⁴ RT I 2004, 29, 194.

⁴⁵ Decision of the Administrative Law Chamber of the State Court of 18 May 2000 no. 3-3-1-11-00, published RT III 2000, 14, 149.

⁴⁶ RT I 2002, 102, 599.

⁴⁷ CERD/C/304/Add.98, 19 April 2000, *Concluding Observations by the Committee on the Elimination of Racial Discrimination: Estonia*, para. 11.

⁴⁸ RT I 2004, 28, 189.

question the visa denial in case of suspected racial discrimination against an applicant. However, the Ministry of Foreign Affairs has clearly stated its intention to control the current practices of consular officials.⁴⁹

Following the requirements of the EU, the Law on Aliens was amended on 19 April 2006⁵⁰ to introduce the status of a long-term resident (the status provides its holders with additional opportunities in EU member states⁵¹). In Estonia, all persons who possessed the permanent residence permits were automatically recognised as persons with long-term resident's residence permits (Article 23⁷(1) of the Law on Aliens). As of 1 January 2006, 85% of all residence permits valid in Estonia were permanent (207,448).⁵²

Additionally, in January 2006, 72% (ca 26,000) of all temporary residence permits were based on an international agreement.⁵³ Mostly they were former Soviet/Russian military servicemen and their family members. Until quite recently, Estonian legislation has been interpreted to the effect that members of this group cannot get permanent residence permits.⁵⁴ Importantly, there are *no* obstacles for them to get a residence permit of a long-term resident.

According to the general rule, a person applied for a long-term resident's status has to fulfil an integration requirement - a test on knowledge of Estonian. However, this rule is not applicable to aliens younger than 15, older than 65 and to those with restricted active legal capacity (Article 14⁵). As the language requirement is valid only from 1 July 2007, there is a window of opportunity for holders of temporary residence permits, who reside in the country.⁵⁵ Nevertheless, one should note that the residential criterion necessary to get permanent residence permit was 3 years (see Article 12 (3) in the version valid until 1 June 2006). As for the long-term resident's residence

⁴⁹ Ministry of Foreign Affairs; Written communication no. 27.1/653 of 24 May 2004.

⁵⁰ RT I 2006, 21, 159.

⁵¹ See Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, Official Journal L 016, 23/01/2004 P. 0044 – 0053.

⁵² Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 23

⁵³ *Ibid*, p. 25.

⁵⁴ See e.g. V. Poleshchuk, *Non-citizens in Estonia: Report 2004*, Tallinn, 2004, p. 10-12.

⁵⁵ Law on Amendments to the Law on Aliens and to the Other Related Laws (RT I 2006, 21, 159), Article 17 (2).

permit, a person has to live 5 years on the basis of a residence permit in order to receive it (Article 14⁴(1)).

At the moment the number of guest workers in Estonia is limited. For instance, on 1 January 2006 only 7% of valid temporary residence permits (ca 2,500) were issued for work.⁵⁶ It is quite possible that the number of guest workers will soar in the near future as an aftermath of the EU accession. In the course of the sociological study Integration Monitoring 2005, majority of ethnic Estonians and non-Estonians have chosen the answer 'I am not against it' and 'I do not care' answering a question regarding possible labour migrants from the Nordic countries and the EU. However, the answer 'Better not' was chosen by the majority of both ethnic Estonians and non-Estonians answering the question regarding labour immigrants from Asia, Africa and Turkey. Ethnic non-Estonians have always demonstrated more liberal approach as compared with ethnic Estonians. 84% of minority members decided that they are not against or they are indifferent towards possible labour immigrants from Russia. For ethnic Estonians the figure was 36%. Nevertheless, it was much higher than in the case of Asians, Africans and Turks - 21, 21, 19% (for ethnic non-Estonians the relevant figures were 36, 33, and 34%⁵⁷).

1.3 Recent history and social tensions: ethnic dimension

In the Estonian context, different interpretations of recent historical events may provoke tensions with an ethnic dimension. It became evident after the 2004 incident in Lihula, which was the result of the activities of local right-wing radicals.

The right-wing radicals' movement has never been very influential in Estonia. It is worth mentioning, however, that in the early 1990s marginal groups appeared in the country that wanted to continue the 'traditions' of semi-fascist organisations that existed before 1940. For instance, after independence was regained, Tiit Madisson, a Soviet-era dissident, created a radical nationalistic political party that failed at the

⁵⁶ Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 25.

⁵⁷ I. Pettai, "Sallivus rahvussuhetes Eestis", in *Uuringu Integratsiooni Monitooring 2005 Aruanne*, Tallinn, 2005, p. 38.

1995 national elections.⁵⁸ In 1997 the National Court found him guilty of the preparation of a coup d'état.⁵⁹ Madisson published several books, e.g. "New World Order: Conspiracy of Judaists and Masons to Subdue Nations and States"⁶⁰ (2004) or "Holocaust: The Most Depressing Zionist Lie in the XX Century" (2006).⁶¹ In 2002 Madisson won a local election in Lihula⁶². In 2004 his actions provoked 'the war of monuments' which was inspired by the incident regarding the so-called Lihula monument.

The Lihula monument was a bas-relief of a submachine-gunner in SS uniform decorated with German Iron Cross and an Estonian order. The inscription on the monument stated that it is dedicated to "the Estonian men who fought for restoration of Estonian independence and against Bolshevism in 1940-1945"⁶³. It was erected not far from the tomb placed at the wartime common grave of Soviet soldiers. The Lihula monument stood since 20 August till 2 September 2004 when it was removed by the police authorities by order of the Government of the Republic⁶⁴. The police commissioned experts in semiotics who claimed that the monument does not propagate Nazi ideology, but it was made in a 'bad style' and created 'spatial conflict.'⁶⁵ On the basis of the results of this expertise the police decided to cease investigation on the basis of Article 151 of the Penal Code (incitement to hatred)⁶⁶.

In September 2004 the Government claimed that it regards highly the bravery of those who defended Estonia against all occupations, but not the 'uniform induced on them.'⁶⁷ Later it was decided that the Government will support financially a monument to immortalise 'those who fought and perished for Estonian independence

⁵⁸ National Electoral Committee, information available at <http://www.vvk.ee>, (01.07.2006).

⁵⁹ Decision of the Criminal Law Chamber of the State Court of 14 January 1997 no. 3-1-1-5-97, published RT III 1997, 6, 62.

⁶⁰ T. Madisson, *Maailma uus kord: judaistide ja vabamüürlaste varjatud tegevus rahvaste ning riikide allutamisel*, Lihula, 2004.

⁶¹ T. Madisson, *Holokaust: XX sajandi masendavaim sionistlik vale*, Lihula, 2006. This book became the bestseller no. 1 in a large chain of bookshops *Rahva Raamat*. Holocaust denial is not criminalised in Estonia and there is no efficient legal mechanism to fight distribution of similar literature in the country. The regular rating of bestsellers is published by the weekly *Eesti Ekspress*, (12.04.2006).

⁶² National Electoral Committee, information available at <http://www.vvk.ee>, (01.07.2006).

⁶³ *Baltic News Service*, (10.08.2004).

⁶⁴ RTL 2004, 119, 1861.

⁶⁵ *Baltic News Service*, (30.09.2004).

⁶⁶ *Baltic News Service*, (28.09.2004).

⁶⁷ Government of the Republic: Press-release of the Government's Press Office of 2 September 2004; available at <http://www.riik.ee/brf/?id=1208>, (01.05.2006).

and the victims of foreign regimes'⁶⁸. According to the sociological study the destruction of Lihula monument (when the police used physical compulsion) was criticised by a majority of Estonians and supported by a majority of Russians⁶⁹.

In September 2004 a dozen monuments of Soviet soldiers were vandalised in Estonia. The same month, the memorial signboard of the 1987 meeting in support of Estonian independence in Tallinn was spoiled with a Nazi swastika.⁷⁰ 'The war of monuments' continued in 2005. Certain regrettable incidents were observed on 7-10 May 2005 when the end of the Second World War was commemorated in the country and abroad. For instance, monuments to Soviet soldiers were vandalised in Tallinn (9 May) and Rakvere (9-10 May) while a German military cemetery was vandalised in Narva (7 May)⁷¹.

The official attitude to the Second World War in Estonia could be summarised as: Estonia did not participate in the war and its people were terrorised by the two great powers with one occupation following the other. In fact, Estonians served in the armies of both the Soviet Union and Nazi Germany. However, the prevailing tendency is to regard Estonians who were in the Nazi Army (including SS divisions) as fighters for independence. As the Prime Minister Andrus Ansip put it in his recent speech at the Gathering of fighters for freedom (mainly Estonians who fought in 1944 in German Army and 'forest brothers'⁷²), "[y]our fight is a heroic deed that must be highly appreciated now and in the future. Although Estonia's independent statehood was not restored at the time, your fight played a large role in the ability of the Estonian nation to keep up their struggle for freedom throughout the Soviet occupation. As you have said between yourselves: we lost the battle, but we won the war in the end."⁷³

⁶⁸ Government of the Republic: Press-release of the Government's Press Office of 17 September 2004; available at <http://www.riik.ee/brf/?id=1208>, (01.05.2006).

⁶⁹ *Baltic News Service*, (06.09.2004).

⁷⁰ *Baltic News Service*, (06.09.2004) and (13.06.2004) and *Delfi*, (7.09.2004).

⁷¹ *Delfi*, (09.05.2005) and (10.09.2005)).

⁷² 'Forest brothers' are people who disobeyed Soviet administration and hid in the woods (mostly in 1940s-1950s). Some of them were engaged in armed actions against the Soviet administration and Soviet-minded Estonians.

⁷³ Government of the Republic: Press-release of the Government's Press Office of 10 July 2006; available at <http://www.valitsus.ee/?id=5642>, (15.07.2006).

Without doubt, right-wing radicals tend to misinterpret the public statements of Estonian officials regarding the events of the Second World War. Additionally, it seems that criticism of Nazi ideology cannot be comprehensive when some politicians try to avoid criticism of high-ranked Estonian collaborationists (those who cooperated with the Nazi Germany occupation administration).

There are considerable differences between majority and minority members as regards interpretation of the historical events, which took place during the Second World War. Importantly, according to the Integration monitoring, only 6% (2002) and 7% (2005) of ethnic non-Estonians fully agreed with the idea of Soviet occupation of Estonia in 1940 (and accordingly 26 and 23% chosen the answer that Estonia was ‘rather’ occupied). At the same time according to the Ministry of Interior, the statements that Estonia acceded voluntary to the Soviet Union, or that deny occupation, or that justify annexation shall be regarded as an ‘assault against the Constitution’.⁷⁴

In May 2006 a number of incidents near the Tõnismäe monument in Tallinn provoked heated debates regarding the future of the monument and the interpretation of the Second World War results. The Tõnismäe monument is placed in the centre of the Estonian capital at the common grave of the Red Army soldiers who perished in 1944 in Tallinn (mostly in military operations against the German Army, which is now officially regarded as the second Soviet occupation). The central detail of the monument is a statue of the soldier in the Soviet uniform with his head bent (the ‘Bronze soldier’). There are signs on the monument in Estonian and Russian: “To those who perished in the Second World War”.

On the 9th of May annually thousands of members of the Russian community place flowers near the monument ‘in memory of those who perished in the Second World War’. For them the statue plays the role of the ‘Unknown soldier’ monument. At the same time, for many members of the Estonian community (including high-ranking politicians) it became a ‘symbol of the Soviet occupation’ and therefore shall be replaced. Due to numerous recent incidents near the ‘Bronze soldier’ (most noticeable actions against the monument were organised by Tiit Madisson and a group of young

⁷⁴ Ministry of Interior; Written communication no. 9.1-5-1/6562 of 13 July 2006.

skinheads) the authorities banned at the end of May 2006 any public access to the 'Bronze soldier', which is now under the special protection of the police. The discussion regarding the future of the monument resulted in several mass actions in the streets with the participation of members of both Estonian and Russian communities on the opposite sides (e.g. on 27 May 2006).⁷⁵

⁷⁵ The above-mentioned incidents near the 'Bronze soldier' (May-June 2006) were witnessed by the staff members of the Legal Information Centre for Human Rights (Tallinn).

PART TWO. NON-DISCRIMINATION AND ETHNIC VIOLENCE: LEGISLATION AND POLICIES

2.1 Background information. Policies

2.1.1 Discrimination

In general, the problem of ethnic *discrimination* is not recognised by many social scientists in Estonia and this approach is followed by local policy makers. For instance, in 2004 in the interview to the prominent Russian newspaper *Izvestia* then Prime Minister of Estonia Juhan Parts claimed that no cases of labour market discrimination of local Russians were known to him.⁷⁶ There was no public recognition of the problem of discrimination of Russians or other ethnic groups articulated at the highest political level in Estonia.

State organs' statistics can say nothing about minority discrimination cases: the organs either do not collect such data or can only report individual complaints. For instance, in 2005 the Estonian Labour Inspectorate did not collect data about ethnic or racial discrimination,⁷⁷ although existing Estonian labour laws included detailed norms concerning such discrimination at workplace.

The Estonian equality body – the Legal Chancellor – deals with discrimination cases in private and public domain. The body has had a mandate to deal with discrimination by private legal and natural persons only since January 2004. In 2004-2005 there was only one complaint regarding discrimination on the basis of ethnicity and it referred to access to services (the total number of discrimination complaints was six).⁷⁸ This was a complaint of people who were not permitted to stay in a restaurant, allegedly because of their Russian ethnicity. To the best of our knowledge the Legal Chancellor did not address the issue of ethnic discrimination in public statements in 2004-2005.

⁷⁶ *Izvestia*, (13.05.2004).

⁷⁷ Labour Inspectorate; Written communications no. 1-05/13815v of 28 July 2005 and no. 1-05/13815-3 of 19 August 2005.

⁷⁸ Legal Chancellor; Written communications no. 5-3/0503214 of 14 June 2005 and no. 5-3/0600912 of 1 February 2006.

As for discrimination by public bodies, the Legal Chancellor does not keep separate statistics of such cases. One of the most recent cases was a complaint of a person who alleged discrimination on the ground of skin colour committed by border guard officers (unjustified checks at the State border). However, the Legal Chancellor has found that this person was treated differently because of his previous illegal crossing of the State border known to the officials and because of suspected contacts of this person with human and drug traffickers.⁷⁹ Interestingly, according to our information this person was a former asylum-seeker from Turkey who received a subsidiary protection status in Estonia.

In the 2005 sociological study in Tallinn 10% of ethnic Estonians and 41% of non-Estonians (naturalised citizens – 38%) answered ‘yes, frequently’ or ‘yes, rather frequently’ to the direct question whether any ethnic groups are discriminated against in Estonia. On the other hand, the answer ‘not so frequently’ was chosen by 33% of Estonians and 43% of non-Estonians. Here we should also note that among Estonians who believed in the discrimination of some ethnic groups, one in four meant their own ethnic group, i.e. the discrimination of Estonians. The answer ‘not at all’ was chosen by every second Estonian and every tenth representative of minorities.⁸⁰

In the course of the same study in Tallinn the respondents were asked whether their rights had been infringed upon in the past three years, or whether they had experienced humiliating treatment due to their ethnic background in a number of areas and situations. Both ethnic Estonians and non-Estonians have most frequently experienced (or think they have experienced) infringement of their rights and maltreatment due to their ethnic background in shops and transport. 17% of non-Estonians have had this kind of experience at work, and another 23% mentioned that their mother tongue was a reason for the infringement of rights or undignified treatment. Remarkably enough, among naturalised citizens (i.e. people with regulated status, normally speaking Estonian) 15% (ethnicity) and 23% (mother tongue)

⁷⁹ Legal Chancellor; Written communication no. 9-3/1081 of 22 July 2004.

⁸⁰ LICHR and Saar Poll; Sociological study in Tallinn, September 2005. Database of the study on file with the author.

reported discrimination at workplace.⁸¹ Although the question about discrimination with regard to language was only asked in relation to work, the reason for the inappropriate treatment of non-Estonians in other spheres might also be the use of Russian rather than their ethnic background.

Table 8. Experience of the infringement of rights or maltreatment in the past three years due to ethnic background, Tallinn, 2005, %⁸²

	Estonians		Non-Estonians		Naturalised citizens of Estonia		Russian citizens		Stateless	
	yes	no	yes	no	yes	no	yes	no	yes	no
Educational establishments	2.8	58.5	11.2	53.6	11.4	59.3	5.1	41.0	12.0	55.0
Shops, supermarkets	12.3	74.2	28.8	65.6	21.1	74.0	38.5	55.1	38.0	58.0
Bars, restaurants	5.8	72.0	9.9	74.9	6.5	82.9	7.7	64.1	12.0	75.0
Accommodation, housing	3.1	63.7	12.5	66.4	13.0	67.5	12.8	61.5	15.0	72.0
Public transport	8.0	75.1	21.3	73.3	15.4	78.9	23.1	73.1	29.0	69.0
Workplace	1.8	---	17.1	---	15.4	---	16.7	---	23.0	---

The data of sociological studies provide us with evidence that the situation at the national level may differ as compared with the situation in Tallinn (in the capital city the population is divided almost equally into ethnic Estonians and non-Estonians). According to the Working Life Barometer 2005 (commissioned by the Ministry of Social Affairs), some respondents also claimed that, either often or from time to time, they had been at their present workplace witnesses of unequal treatment of other workers on the grounds of official language proficiency (11%) and ethnic origin (6%). At the same time accordingly 3 and 2% of respondents claimed to have the same

⁸¹ Ibid.

⁸² Ibid. The whole question was worded as follows: "Have you experienced any infringement of your rights or maltreatment due to your ethnic background in the past three years?" As to educational establishments, we should note that 25% of naturalised citizens, 51% of Russian citizens and 30% of people without citizenship had not been there in the specified period. 24% of Russian citizens had not visited bars or restaurants within this period. This can explain a remarkable difference in answers for these categories compared to other ethnic non-Estonians.

personal experience.⁸³ Unfortunately, the data of the Working Life Barometer cannot be compared with the data of any nation-wide researches conducted earlier.⁸⁴

2.1.2 Ethnic violence and crime

Instances of racially and ethnicity motivated violence are rare in Estonia and no public institutions keep statistics of such cases. Similar observation might be made for the whole period after Estonia regained independence in 1991.⁸⁵ Nevertheless, in its recently published information sheet the U.S. Department of State argues that in Estonia “[r]acially motivated verbal harassment and, on occasion, physical assault of Americans and other nationals of non-Caucasian ethnicity has occurred”.⁸⁶

Until July 2004 investigation on the basis of Article 151 of the Penal Code (incitement to hatred) was the prerogative of the Security Police, while since 1 July 2004 minor offences in this field (Article 151 (1)) are a responsibility of the ordinary police.⁸⁷ In 2000-2005, there were altogether 15 investigations initiated by the Security Police on the basis of Article 72 of the ‘old’ Criminal Code and Article 151 of the ‘new’ Penal Code. Additionally, 6 investigations were initiated by ordinary police in 2004-2005 (mostly cases of incitement to hatred in Internet).⁸⁸ In 1993-1999 there were 13 investigations on the basis of Article 72 of the Criminal Code.⁸⁹ Consequently, in recent years the number of investigations on the basis of criminal provisions regarding incitement remained modest.⁹⁰

⁸³ Saar Poll, *Tööelu Baromeeter 2005, Elanikkonna uuringu aruanne*, 2006, p. 42. Available at [http://www.sm.ee/est/HtmlPages/TooeluBaromeeter-aruanne16-01-2006/\\$file/Tööelu%20Baromeeter-aruanne%2016-01-2006.pdf](http://www.sm.ee/est/HtmlPages/TooeluBaromeeter-aruanne16-01-2006/$file/Tööelu%20Baromeeter-aruanne%2016-01-2006.pdf), (30.05.2006).

⁸⁴ Both the sociological study in Tallinn in 2005 and the nation-wide survey Working Life Barometer 2005 were conducted by the sociological service Saar Poll, however, with certain alterations in methodology. Thus, in Tallinn people were asked about their experience of discrimination and harassment within the last three years, while the scope of the nation-wide study was limited to the present workplace of respondents. Another important difference is related to geographical scope (Tallinn – whole Estonia).

⁸⁵ V. Poleshchuk, “Estonia”, in: C. Mudde (ed.) *Racist Extremism in Central and Eastern Europe*, London, 2005, p. 58-79.

⁸⁶ U.S. Department of State, Bureau of Consular Affairs, *Consular Information Sheet: Estonia (5 June 2006)*, available at http://travel.state.gov/travel/cis_pa_tw/cis/cis_1112.html (01.07.2006).

⁸⁷ RT I 2004, 49, 349.

⁸⁸ 2005 data of the Security Police: for January – July. Security Police Board; Written communications no. 6649 of 19 January 2001, no. 5706 of 15 January 2002, and no. 21AT of 12 August 2005; Police Department; Written communication no. PA2-1.11.2/3177 of 18 July 2006.

⁸⁹ Security Police Board; Written communication no. 6649 of 19 January 2001.

⁹⁰ These statistical data include few cases of incitement to political hatred in 1993-2005.

In Estonia there are no specific instructions for the implementation of the Penal Code when dealing with a racist crime appears to be in existence for the police. Both the Police Board and the Security Police Board believe that the topics relating to racially and ethnicity motivated crime can be adequately addressed in the framework of general police training in the Public Service Academy and in other educational institutions. However, there was also an example of specific training in this field.⁹¹

Questions regarding ‘conflicts’ between ethnic Estonians and non-Estonians were asked in the course of the Integration Monitoring 2000 and 2005. According to the Integration Monitoring 2000, 7% of ethnic Estonians and non-Estonians were *personally* involved in ethnicity motivated conflicts or strife.⁹² Up to 7% reported similar cases in 2005.⁹³ However, many more respondents ‘have come across’ conflicts between ethnic Estonians and non-Estonians in media, public places, near their home-house, etc (Table 9). The authors of the Integration Monitoring 2005 believed that the overwhelming majority of conflicts are not related to violence.⁹⁴

Table 9. Have you come across, in the last two years, any conflicts between ethnic Estonians and non-Estonians, cases of hostile attitudes to Estonians and non-Estonians? Responses to ranking ‘yes, frequently’ and ‘yes, sometimes’, in 2000 and 2005, %⁹⁵

	Ethnic Estonians		Ethnic non-Estonians	
	2000	2005	2000	2005
In media	40	43	28	32
In public places	39	45	47	44
In the perimeter of your home-house	21	26	12	22
In governmental institutions	11	10	32	25
At your workplace	...	8	...	14

The questions about the negative experience of contacts between the communities (such as ethnic violence) were asked in the course of the above-mentioned

⁹¹ Police Board; Written communication no. PA4.4-16.2/4698 of 3 November 2004; Security Police Board; Written communication no. 1748/5 of 4 November 2004.

⁹² I. Pettai, “Tolerance of Estonians and Non-Estonians”, in: Lauristin, M. and Vetik, R. (eds.) *Integration of Estonian Society: Integration Monitoring 2000*, Tallinn, 2000, p. 8.

⁹³ I. Pettai, “Sallivus rahvussuhetes Eestis”, in *Uuringu Integratsiooni Monitooring 2005 Aruanne*, Tallinn, 2005, p. 34.

⁹⁴ Ibid.

⁹⁵ Ibid.

sociological study in Tallinn in September 2005.⁹⁶ The question did not mention any timeframe and therefore cannot be used to characterise the current situation. Interestingly enough, one in five Estonians and one in three non-Estonians have never heard of such situations. However, approximately 6% from either group reported having fallen victim to ethnic violence and more than 18% in either group witnessing such violence. Furthermore, many people in either group have never witnessed or fallen victim of ethnic violence but ‘have heard of such cases’. Among non-Estonians the number was less than 50% and among the representatives of the majority ca 59% (see Table 10). In other words, half of both Estonians and non-Estonians believe in what other people or the media say about the reality of ethnic violence which is extremely rarely registered by the authorities.

Table 10. Have you ever been in Estonia a victim or a witness of ethnicity related violence? Tallinn, 2005, %⁹⁷

	All answers	Ethnic Estonians	Ethnic non-Estonians
No, but I have heard about such incidents	53.4	59.4	48.3
I have never heard about such incidents	23.6	16.9	29.3
Yes, I have been a witness	18.4	18.5	18.4
Yes, I have been a victim	6.4	6.5	6.4

Note: Totals do not add to 100% because more than one answer might be chosen.

2.2 Anti-discrimination legislation

In 2003-2004 several important changes took place in Estonia as a response to the requirements of the EU accession regarding the fight against racial and ethnic discrimination (‘Race’ Directive⁹⁸). At the moment, in addition to general provisions of the Constitution, criminal and other legal provisions, the structure of the Estonian anti-discrimination law is shaped by three acts:

⁹⁶ LICHR and Saar Poll; Sociological study in Tallinn, September 2005. Database of the study on file with the author.

⁹⁷ Ibid.

⁹⁸ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Official Journal L 180, 19/07/2000, p. 0022 – 0026.

- Law on Gender Equality (adopted 7 April 2004);
- Law of the Republic of Estonia on Employment Contracts (with relevant amendments adopted on 22 April 2004⁹⁹);
- Law on Legal Chancellor (relevant amendments adopted on 11 February 2003¹⁰⁰).

The Law on Gender Equality covers all spheres of public life (exceptions are made only for registered religious institutions, family and private life – Article 2) and therefore it may be useful in the case of multiple discrimination (e.g. on the ground of both sex and ethnicity).

The Law on Employment Contracts is applicable to work on the basis of an employment contract. It does not regulate, however, the work of public officials, the self-employed, access to occupation, membership in workers' and employers' organisations, etc.

In Estonia, no specific rules to combat racial or ethnic discrimination were established in areas other than ordinary employment, including education, access to goods and services and access to public service. These fields are protected solely by general constitutional and criminal law provisions.

2.2.1 Constitutional and criminal provisions

According to the Estonian Constitution, the norms stipulated by the international treaties, which have been ratified, have priority over domestic legislation. Estonia has signed and ratified the vast majority of international instruments aimed at combating discrimination.

Article 12 of the Estonian Constitution establishes explicit prohibition of discrimination:

⁹⁹ RT I 2004, 37, 256.

¹⁰⁰ RT I 2003, 23, 142.

Everyone is equal before the law. No one shall be discriminated against on the basis of ethnic origin, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds.

The incitement of ethnic, 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.

Thus the Constitution does not provide an exhaustive list of grounds for discrimination. A flexible and comprehensive mechanism for protection against discrimination may be based on this provision, which is directly applicable against both natural persons and public and private legal persons. The constitutional principle of non-discrimination, worded in general terms, is repeated in some other laws e.g. in the Law on Cultural Autonomy of National Minority (Article 3), Law on Wages (Article 5), Law on Advertising (Article 5, which bans offensive and discriminatory advertising), etc.

According to the Penal Code, the most severe violation of the principle of equal treatment constitutes a crime, e.g. Article 152 (violation of equality), Article 153 (discrimination based on genetic characteristics of the person) and Article 151 (incitement).

In May 2004 the parliament amended¹⁰¹ two articles of the Penal Code: Article 151 (incitement to hatred) and Article 152 (violation of equality). The punishment for these crimes was made more severe if they were committed at least twice, or caused significant damage to the rights or interests of another person or to public interests. Further changes in the Code were made in 2006. Importantly, since 16 July 2006¹⁰² the text of Article 151 reads as following:

Article 151. Incitement to hatred

(1) Activities which publicly incite to hatred, violence or discrimination on the basis of ethnic origin, race, colour, sex, language, origin, religion, sexual orientation, political opinion, financial or social status if they have endangered

¹⁰¹ RT I 2004, 46, 329.

¹⁰² RT I 2006, 31, 234.

the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if:

- 1) it results in the death or significant damage to the health of a person or other serious consequences;
- 2) it committed by a person who has been previously punished for the same act; or
- 3) it committed by a criminal organisation, is punishable by a pecuniary punishment or up to 3 years' imprisonment.

...

Contrary to the previous wording of Article 151, the amended proviso of the Penal Code now penalises incitement to *discriminate* and provides for liability for legal persons (in sections (3) and (4)). However, only those acts of incitement are criminalised, which have endangered the life, health or property of a person. In other words, the scope of application of the amended Article 151 was made much narrower. For instance, Article 151 cannot be used in many cases of hate speech anymore.

The Penal Code (valid since September 2002) does not explicitly include racial motivation among the circumstances that should increase punishment (Article 58). Police records will not register ethnicity, but only citizenship of victims or offenders. Racial motivation of a crime will not be registered separately in the police database.¹⁰³

2.2.2 Labour law

The amended Law on Employment Contracts prohibits 'unequal treatment' on the basis of sex, race, age, ethnic origin, language proficiency, disability, sexual orientation, obligation of military service, family status, family life obligations, social status, representation of employees' interests, membership in the employees' organisations, political opinion, membership in a political party, religious or other belief. The anti-discrimination provisions of the Law are applicable to: entry into employment contract; payment of wages; promotion; giving of work-related tasks;

¹⁰³ Police Board; Written communication no. PA4.4-16.2/4698 of 3 November 2004; Security Police Board; Written communication no. 1748/5 of 4 November 2004.

termination of employment contract; opportunities of training, retraining and advanced training; and to other instances of employment relations. A person who applied for a job is also protected by the Law (Article 10).

The Law on Employment Contracts provides for prohibition of direct and indirect 'unequal treatment', harassment, instruction to discriminate (Article 10²). These concepts were worded quite similarly with the relevant provisions of the EU anti-discrimination directives. However, harassment in Estonia will take place only in relations of subordination and dependency. Additionally, the concept of victimisation was not introduced into Estonian legislation.

The Law on Employment Contracts does not regard as discrimination *inter alia* the following circumstances: considering a person's sex, language proficiency, age and disability (if it is justified), and making appropriate arrangements related to work and free time to satisfy employees' religious needs (Article 10¹). Article 10³ of the Law on Employment Contracts guarantees the right to demand from the employer compensation for the proprietary and non-proprietary damage caused by the discrimination. However, a person with whom the employer refused to enter into an employment contract shall not have the right to demand entry into an employment contract. Provisions regarding a shift in the burden of proof can now be found in Article 144¹.

2.2.3 Equality body

In Estonia the Legal Chancellor is *inter alia* an ombudsman-like institution and a specialised body to deal with non-discrimination issues. According to Article 19 of the Law on Legal Chancellor (as amended on 11 February 2003), everyone has received an additional right of recourse to the Legal Chancellor if s/he finds that a natural person or a legal person in private law has discriminated against him or her on the basis of sex, race, ethnic origin, colour, language, origin, religion or religious beliefs, political or other opinion, property or social status, age, disability, sexual orientation or other grounds specified by law. It is worth mentioning that there are no limits as regards grounds in the case of discrimination by public bodies.

The procedure to deal with discrimination by public and by private persons is different. In case of discrimination by public institutions, the Legal Chancellor may be involved as an ombudsman when the procedure can be initiated on the basis of victim's application or at the Chancellor's own initiative (Article 33-35⁴). As a pre-judicial institution the Legal Chancellor's Office may also deal with discrimination by natural persons and legal persons in private law (on the above-mentioned grounds) within the framework of a special conciliation procedure. The aim of this procedure is to reach an agreement between a victim and a person suspected of discrimination. The conciliation procedure can be initiated only on the basis of victim's application. The agreement between parties in a conciliation procedure may include an obligation to pay compensation. This agreement is obligatory and enforceable by a bailiff (Article 35⁵-35¹⁵).

The possibility of the Chancellor to influence the situation is rather limited. The opinion of the Legal Chancellor regarding the discrimination in public institution is a suggestion, proposal or critical notes of no legally binding nature (Article 35¹). However, the law foresees a mechanism to ensure the fulfilment of the Chancellor's suggestion and proposals (Article 35²).

Both the Law on Gender Equality (Article 4) and Law on Employment Contracts (Article 144¹) introduced for alleged discriminators the 'shared obligation to prove' in disputes over unequal treatment. In fact, this is the obligation to give clarifications (and if a person refuses to do that, the fact of discrimination will be deemed proved). Importantly, an alleged discriminator is not obliged to participate in a conciliation procedure (Article 35¹¹ (1)). In 2004-2005 there were only six applications with a request to start a conciliation procedure and three of them were not considered for formal reasons. As for valid applications, in all three cases an alleged discriminator denied participation in the procedure, and therefore it was ceased.¹⁰⁴ That raises serious concerns regarding efficiency of the procedure in general and about the value of 'burden of proof' guarantee in particular.

¹⁰⁴ Legal Chancellor; Written communications no. 5-3/0503214 of 14 June 2005 and no. 5-3/0600912 of 1 February 2006

Six discrimination-related complaints (on all grounds) cannot be regarded as a pattern of sufficient activity of the Estonian equality body. One of the possible reasons for the poor effectiveness of the Legal Chancellor's office might be the low level of minority members' awareness about the work of this institution. For instance, during the sociological study in Tallinn (September 2005) 69% of minority members were not familiar with the work of this institution (to be compared with 28% of ethnic Estonians).¹⁰⁵

¹⁰⁵ LICHR and Saar Poll; Sociological study in Tallinn, September 2005. Database of the study on file with the author.

PART THREE: SITUATION IN PARTICULAR AREAS

3.1 *Minority status*

In Estonia only the Law on Cultural Autonomy of National Minorities of 1993 specially addresses the issue of minority rights. Article 1 of the Law stipulates an official definition of the national minority:

- they are citizens of Estonia;
- they reside in the territory of Estonia;
- they have time-honoured, stable and strong links with Estonia;
- they differ from Estonians by their ethnic affiliation, cultural and religious idiosyncrasies, or language;
- they are guided by the desire to conserve, by joint efforts their cultural traditions, religion and language, underlying their common identity.

Therefore, the majority of ethnic non-Estonians are officially excluded from the definition (due to citizenship criteria). It is worth mentioning, however, that the Law entitled non-citizens with the right to participate in the activities of cultural autonomies (Article 6).

The Law enumerates basic rights of minority members. Furthermore, it stipulates the procedure and rules for the foundation of cultural autonomies which are supposed to maintain the system of minority educational and cultural organisations. Cultural autonomies may be founded by Germans, Russians, Swedes, Jews or by three thousand Estonian citizens of other minority origin (Articles 1 and 2 (2)). Only one cultural autonomy was founded in Estonia since 1993 (Ingrian Finns, 2004). The possible reasons for it are clumsy foundation procedures, lack of a positive obligation of the state to finance the work of minority cultural and educational institutions, and (last but not least) citizenship criteria.

The same definition of a national minority was given in the declaration that Estonia made upon the ratification of the Framework Convention for the Protection of National Minorities. However, in its 2001 Opinion on Estonia Advisory Committee

on the Framework Convention for the Protection of National Minorities addresses the problems of both citizens and non-citizens of minority ethnic origin.¹⁰⁶

At the moment the restrictive definition of a national minority has little practical effect. Citizens and non-citizens do not have any separate cultural or educational institutions and organisations. However, the lack of official recognition may promote alienation of non-citizens and other minority members from the Estonian State and society.

3.2 Right to citizenship

Right to citizenship (right to nationality) is a rather vague concept in international human rights law. However, the Universal Declaration of Human Rights (1949) proclaims the right of every human being to nationality and the right to change or not to be deprived of one's nationality (Article 15).

During the Soviet period all persons residing in Estonia were Soviet citizens. After Estonia regained independence the body of the pre-war Estonian citizenship was restored. However, after the collapse of the USSR in December 1991, Soviet citizens, who were not automatically recognised as Estonian nationals, became stateless.

For a long time the Estonian authorities tended to ignore this problem. Quite often it was declared that these people were not stateless because they were entitled to citizenship of the Russian Federation - a legal successor of the USSR. In the first Aliens' passports¹⁰⁷ 'FSU' (acronym for 'Former Soviet Union') was written in the entry 'citizenship'. At the moment the term 'undefined' is used.

While every tenth Estonian resident is stateless, Estonia has neither signed nor ratified the UN Convention on Reduction of Statelessness (1961). The absence of citizenship is normally understood as a problem of the individual, not the state. Furthermore,

¹⁰⁶ ACFC/INF/OP/I(2002)005, *Advisory Committee of the Framework Convention, Opinion on Estonia adopted on 14 September 2001*, paras. 13-20.

¹⁰⁷ Alien's passports were issued mostly to stateless former Soviet citizens.

measures to promote linguistic ‘harmonisation’ of the society have always had a priority over all other minority policies. As a result, serious changes regarding linguistic requirements in the naturalisation procedure (which may effectively solve the problem of mass-statelessness) are hardly realistic without challenging the ideological consensus among the Estonian Establishment.

At the moment, the right to citizenship is recognised only for stateless children under 15 years of age who are entitled to a simplified naturalisation procedure. According to the amended Article 13 (4) of the Law on Aliens:

A minor under 15 years of age who was born in Estonia after 26 February 1992 shall acquire Estonian citizenship by naturalisation 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 Law in force;
- 2) 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 law in force.

The legal basis for this amendment is Article 7 (1) of the Convention of the Rights of the Child that guarantees to every child the right to acquire a citizenship immediately after birth. Limitations of the Estonian law based on the date of birth of a child (“after 26 February 1992” – the date of re-adoption of the 1938 Law on Citizenship) and age (minors under 15 years of age) violate the principle of Article 1 of the same Convention (“For the purposes of the present Convention, a child means every human being below the age of eighteen years...”).

It is worth mentioning that certain categories of non-citizens (including stateless persons) are deprived of the right to naturalise. For instance, Estonian citizenship will be denied to a person who (Article 21 (1) of the Law on Citizenship):

- has committed a criminal offence for which a punishment of imprisonment of more than one year was imposed and whose criminal record has not expired or who has been repeatedly punished under criminal procedure for intentionally committed criminal offences (however, exceptions are possible according to Article 21 (1¹));
- has been employed or is currently employed by foreign intelligence or security services;
- has served as a professional member of the armed forces of a foreign state or who has been assigned to the reserve forces thereof or has retired there from, and nor shall Estonian citizenship be granted to or resumed by his or her spouse who entered Estonia due to a member of the armed forces being sent into service, the reserve or into retirement.

In practice, these limitations are normally applied to former Soviet security service officers as well as to former Soviet/Russian military servicemen and their spouses (see the groups of aliens who cannot receive Estonian citizenship in Annex III).

Former military serviceman can receive citizenship only if he or she has been married for at least 5 years to a person that acquired Estonian citizenship by birth (Article 21 (2)). The discrimination of citizens by naturalisation by this particular legal clause was unsuccessfully contested in the Estonian courts. The stateless Estonian resident Vjatšeslav Borzov (married an Estonian citizen by naturalisation) filed an unsuccessful complaint against this rule in the UN Human Right Committee.¹⁰⁸

The Law on Citizenship explicitly requires that a naturalised person shall be loyal to Estonia (Article 6). In 2003 a young person was denied Estonian citizenship after the intervention of the Security Police. Statements on his web page were characterised by the authorities as offensive to the Republic of Estonia.¹⁰⁹

According to the Estonian Constitution (Article 8), no one can be deprived of citizenship acquired by birth. This principle is also incorporated into the Law on Citizenship (Article 5 (3)). However, a naturalised person may be deprived of Estonian citizenship if s/he attempts to change forcibly the constitutional order of

¹⁰⁸ CCPR/C/81/D/1136/2002, 25 August 2004, Communication no. 1136/2002.

¹⁰⁹ *Baltic News Service*, (06.05.2003).

Estonia, joins foreign military or intelligence service, etc. In fact, citizenship shall be deprived even if it results in person's statelessness. The deprivation of the citizenship shall be executed by the order of the Government (not court decision). It is prohibited to deprive the citizenship solely because of person's belief (Article 28).

On 1 January 2004 the amendments to the Law on Citizenship entered into force¹¹⁰ that ensured for State reimbursement (50-100% and within certain limits) of the fee paid for Estonian language training by an alien who studied the language at the accredited courses and managed to pass the naturalisation exams.

3.3 Respect for private and family life and home

In general there are no practices of unlawful interference with minorities' privacy, family, home, correspondence, etc. However, there might be legal disputes over protection of non-citizens' (especially third country nationals') private and family life related to the cases of family reunification and illegal aliens' expulsion.

In the case of family reunification, the treatment of non-citizens is less favourable as compared with Estonian citizens. Thus, third country nationals are required to 'prove' that their family reunification in Estonia is justified (Article 12¹ (7) of the Law on Aliens):

An application for a residence permit to settle with a spouse who resides in Estonia and who is an alien shall be considered to be unjustified if the alien who applies for the residence permit and the spouse for the purposes of settling with whom the residence permit is applied for do not prove that it is not possible for them to settle in the country of their common citizenship or in the country of citizenship or country of habitual residence of the alien who applies for the residence permit.

¹¹⁰ RT I 2003, 82, 550.

In December 2002 the *Riigikogu*¹¹¹ amended the Law on Obligation to Leave and Prohibition on Entry.¹¹² As a result, family life in Estonia is not regarded anymore as a circumstance that guarantees the issuance of a precept to legalise to an illegal alien.

Since May 2003 the officials of the Citizenship and Migration Board and Labour Market Board received the right to enter with the owner's permission a person's dwelling for verification of the facts important for the issuance of a residence permit. In 2004 the relevant provision was worded as follows (Article 15¹ (3) of the Law on Aliens):

Officials of the Citizenship and Migration Board, consular officers, officials of the Labour Market Board, Border Guard officials and police officers have, according to their competence, the right to question an alien, his or her family members, the person who invited the alien to Estonia and other involved persons and agencies, and enter a person's dwelling with the permission of the person for verification of the facts which are the basis for application for, holding of, application for extension or revocation of the legal basis to the stay or taking employment in Estonia by the alien or for application for the approval of a visa invitation.

3.4 Political participation and public service

The Law on *Riigikogu* Election stipulates that voters at national elections shall be Estonian citizens. Only Estonian citizens may be candidates at parliament elections as well (Article 4). Both Estonian citizens and citizens of the EU member states residing in Estonia enjoy the right of active and passive suffrage at elections of the European Parliament in Estonia (Law on European Parliament Election, Article 4).

As for local elections, Estonian citizens and citizens of the European Union who have attained 18 years of age by election day and whose permanent residence is located in the corresponding municipality have the right to vote. If they are registered in the corresponding municipality before 1 August of the year of elections, they can also

¹¹¹ *Riigikogu* is the Estonian Parliament.

¹¹² RT I 2003, 4, 21.

stand as candidates (Article 5 of the Law on Election of Local Self-government Council).

At local elections additional requirements are stipulated for non-EU nationals including stateless former Soviet citizens: They should have long-term resident's residence permit and reside in a particular municipality for 5 years. Furthermore, these aliens have no right to stand as a candidate at elections (Article 5(2)). In certain places of Estonia this rule disfranchises a large proportion (or even a majority) of the local population:

Table 11. Population of Tallinn, Maardu and the biggest towns of the Ida-Viru County by citizenship, 2000 national census, %¹¹³

	Citizens of Estonia	Non-citizens		
		All	Citizens of Russia	Stateless persons
Tallinn	71	29	9	18
Maardu	43	57	11	43
Narva	36	64	29	34
Jõhvi	55	45	13	30
Kohtla-Järve	42	58	13	43
Sillamäe	21	79	23	54

Language requirements for a candidate at national and local elections were abolished in Estonia in 2001.¹¹⁴ However, at the moment Estonian is the only official working language in all local self-governments and their councils.¹¹⁵ These amendments actually created additional difficulties for minority members. In Narva City Council, for instance, the deputies now have unofficial sessions in Russian, followed by quick and formal official sessions in Estonian¹¹⁶, practices that are well known to the central authorities¹¹⁷. In recent years, the local deputies have unsuccessfully asked the government to change the law.

¹¹³ Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Table 4.

¹¹⁴ RT I 2001, 95, 588.

¹¹⁵ RT I 2001, 94, 581 and RT I 2001, 100, 642.

¹¹⁶ In 2004, among 31 members of the Narva City Council, four deputies spoke Estonian as a first language. Additionally, only four other deputies were fluent in the official language. *Eesti Päevaleht*, (28.07.2004).

¹¹⁷ Interview with the Director of the Estonian Language Inspectorate, Ilmar Tomusk, at *Regnum*, available at <http://www.regnum.ru/allnews/241580.html>, (accessed on 1 June 2006).

At 1993 and 1996 local elections non-citizens were obliged to follow a preliminary registration procedure to take part in voting. For former Soviet residents it was possible to vote with temporary residence permits until the 1999 local election. The participation rate of non-citizens is known only for the 1996 and 1999 local elections (Table 12).

Table 12. Participation rate of citizens and non-citizens at local elections in Estonia, %¹¹⁸

Local Elections	Citizens	Non-citizens	Total
1993	Not available	Not available	52.7
1996	49.7	85.0	52.6
1999	50.6	43.2	49.2
2002	Not available	Not available	52.5
2005	Not available	Not available	47.4

Citizens of a foreign state may use an opportunity to take part in parliament elections in the country of their citizenship through diplomatic representations. In 2003, 16,581 Russian citizens residing in Estonia took part in the election of the State *Duma*.¹¹⁹

According to the Law on Public Meetings, an organiser of a public meeting shall be an Estonian citizen or an alien with a long-term resident's residence permit (Article 6(4)).

According to Article 48 of the Constitution, "only Estonian citizens may belong to political parties". However, there are no limits for aliens to found or run a non-profit organisation according to the Law on Non-Profit Organisations.

The Estonian Constitution permits aliens to be public officials in exceptional cases "in accordance with law" (Article 30). At the moment such an opportunity is not foreseen in the Law on Public Service for third country nationals: all of them were discharged from public service by 1 January 2004 (Article 169). However, since 1 May 2004 certain positions of public officials are available to citizens of the EU member states (Article 14 (3)).

¹¹⁸ The table includes the percentage of all voters in the electors' lists who have received ballots. For the year 2002 and 2005 we gave the percentage of people who actually voted. Source: National Electoral Committee, information available at <http://www.vvk.ee>, (01.07.2006).

¹¹⁹ *Baltic News Service*, (08.12.2003).

According to the Integration Monitoring 2002, stateless persons gave a low priority to different aspects of participation in political life in the list of reasons for obtaining Estonian citizenship. Citizenship was important in order to obtain franchise at *Riigikogu* elections for 39% of them, followed by the wish to obtain franchise at local elections (33%), the possibility to get a job in a state institution (27%) and the possibility to become successful in political and public life (4%). It is worth mentioning that respective figures for Estonian citizens of non-Estonian origin were somewhat higher.¹²⁰

This modest interest towards political participation may have different explanations. The use of the minority language in public sphere and public education, problems of mass-statelessness, economic difficulties in the predominantly ‘Russian’ Ida-Viru County were normally given by the so-called ethnic Russian parties. However, at the recent local and national elections these parties gained negligible support. One of the main reasons for their poor result is the low effectiveness of these parties that have always occupied margins of local and national political life. At the last elections a recent tendency of the Estonian mainstream parties to work actively with the Russian-speaking electorate has awarded them with non-Estonians’ support, in spite of the causal and fragmented coverage of the most challenging minority problems in programs and electoral platforms of these parties. At the last local elections in Tallinn a considerable number of candidates in the electoral lists of the two leading mainstream parties were persons with non-Estonian names.¹²¹

According to the 2000 national census, the percentage of minorities in public administration and defence corresponded to their share in the Estonian citizenry.¹²² It is a well-known fact, that minorities have a good position in the Northern-Eastern officialdom. Nevertheless, the 2000 census data for senior government officials is far from equal representation and it cannot be explained by civil status or Estonian language proficiency of minority members.

¹²⁰ R. Vetik, “About formation of a common foundation in legal-political integration”, in K. Hallik (ed.) *Integration of Estonian Society: Monitoring 2002*, Tallinn: Institute of International and Social Studies and Integration Foundation, 2002, p. 63.

¹²¹ National Electoral Committee, information available at <http://www.vvk.ee>, (01.07.2006).

¹²² Statistical Office of Estonia, *2000 Population and Housing Census: Economically Active Population IX*, Tallinn, 2003, Table 46.

Table 13. Estonians and Russians among legislators and senior government officials, 2000 national census, %¹²³

	Estonians	Russians
Percentage in the group of ‘legislators’	96.6	3.3
Percentage in the group of senior government officials	95.0	3.5
Percentage in the citizenry	84.2	13.0
Percentage in the citizenry (only persons with Estonian language proficiency)	83.6	7.7

During the Integration Monitoring 2002 Estonian respondents were asked what should be a ‘proper representation’ of the large non-Estonian population in various government institutions and offices. The majority of Estonians preferred the exclusive options: the proportion ‘1/10 or less’ or ‘no need [of them] at all’ for *Riigikogu* (respectively 40% and 21%), government (28 and 36%), local self-government (31 and 25%), executive bodies of state-owned enterprises (32 and 21%).¹²⁴

3.5 Freedom of expression

According to Article 45 of the Estonian Constitution, “[e]veryone has the right to freely disseminate ideas, opinions, beliefs and other information by word, print, picture or other means”. Nevertheless, certain rules regarding public use of languages should be revised as they are inconsistent with international standards. Under the Law on Language (Article 23), [p]ublic signs, signposts, announcements, notices and advertisements “shall be in Estonian” meaning “only in Estonian”. Exceptions to this rule are possible in the interests of foreign diplomats, tourists and registered cultural autonomies. Other exceptions enlisted in the Law cannot be used in practice. However, in recent years the Language Inspectorate employs more tolerant approach towards bilingual public signs and advertising. Regrettably, this practice is based on the good will of particular officials, not the law.

¹²³ Ibid, Table 50 and Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Tables 39 and 42.

¹²⁴ K. Hallik, “Political dimension of integration”, in K. Hallik (ed.) *Integration of Estonian Society: Monitoring 2002*, Tallinn, 2002, p. 69.

Certain limits for the use of foreign languages (including minority languages) were stipulated for TV channels. According to Article 25 of the Law on Language,

- (1) Upon broadcasting (including transmission by television stations or cable networks) of audiovisual works (including programs and advertisements), foreign language text shall be accompanied by an adequate translation into Estonian.
- (2) A translation into Estonian is not required for programs which are immediately retransmitted or language learning programs or in case of the newsreader's text of originally produced foreign language news programs and of originally produced live foreign language programs.
- (3) A translation into Estonian is not required in case of radio programs which are aimed at a foreign language audience.
- (4) The volume of foreign language news programs and live foreign language programs without translations into Estonian specified in section (2) of this Article shall not exceed 10% of the volume of weekly original production.

Implementation of this rule is monitored by the Language Inspectorate, which found in September 2004 that a Russian language *Orsent TV* had violated Article 25 of the Law on Language. *Orsent TV* received a written order from the Language Inspectorate to bring its broadcasting into line with law, and subsequently the transmission of its programmes was temporarily terminated by the holder of the broadcasting licence until *Orsent TV* began to translate its programmes.¹²⁵

3.6 Labour market

In general in recent years the unemployment rate of ethnic non-Estonians was two times higher than the rate of ethnic Estonians. Contrary to many Western European countries, there were no significant differences between men and women of minority origin in Estonia:

¹²⁵ ACFC/INF/OP/II(2005)001, Advisory Committee on the Framework Convention for the Protection of National Minorities, *Second Opinion on Estonia adopted on 24 February 2005*, para. 88.

Table 14. Ethnic Estonians and non-Estonians by unemployment rate and sex, persons aged 15-74, 2001-2005, %¹²⁶

Ethnic origin sex	2001	2002	2003	2004	2005
ESTONIANS					
All	10.4	7.9	7.3	6.4	5.3
Males	11.6	8.9	7.6	7.4	6.7
Females	9.1	6.9	6.9	5.4	3.9
NON-ESTONIANS					
All	16.8	14.9	15.2	15.6	12.9
Males	15.6	14.5	15.2	16.3	12.8
Females	18.1	15.3	15.3	14.9	13.1

In 2002 the Ministry of Social Affairs mentioned the following main groups of risks in the labour market: the young, long-term unemployed, disabled persons and non-Estonians without Estonian language proficiency.¹²⁷ For instance, in 2003 ethnic non-Estonians make up more than 60% of the group of people unemployed for 24 months and longer.¹²⁸ The authors of the special study on long-termed unemployment, which was published in 2004, came to the conclusion that among the main reasons for this situation are poor Estonian language proficiency and low social mobility of non-Estonians.¹²⁹

Nevertheless, the problems of minority members' in the labour market cannot be explained solely by their poor Estonian language. Estonia still witnesses ethnic divisions of the labour market preserved from the Soviet period. Furthermore, the recent market reforms have undermined those branches of the economy where minorities are employed. The logic of social changes and official policies has pushed minority members to the lower career positions and to the lower wages quintile.¹³⁰

¹²⁶ Statistical Office of Estonia, public database at <http://www.stat.ee>, (01.06.2006).

¹²⁷ *Sotsiaalministeerium, Eesti Vabariigi tööhõive tegevuskava 2003*, Tallinn, 2002, p. 9.

¹²⁸ Statistical Office of Estonia, *Labour Force 2003*, Tallinn, 2004, Table 93.

¹²⁹ U. Venesaar, M. Hinnosaar, M. Luuk, Ü. Marksoo, *Pikaajaline töötus Eestis*, Tallinn, 2004, p. 20.

¹³⁰ The economic situation of non-Estonians in post-Soviet Estonia was carefully examined by prominent Estonian social scientists: K. Hallik, J. Helemäe and E. Saar, *Neestoncy na rynke truda novoy Estonii*, Moscow, 2001.

Table 15. Employed persons by ethnicity and occupation, 2003, %¹³¹

Occupation	Estonians	non-Estonians
Legislators, senior officials and managers	13.8	7.6
Professionals	15.8	9.9
Technicians and associate professionals	13.3	9.5
Clerks	4.8	5.7
Service workers and shop and market sales workers	12.2	14.1
Skilled agricultural and fishery workers	3.5	...
Craft and related trade workers	12.9	21.6
Plant and machine operators and assemblers	12.4	17.1
Elementary occupations	10.3	13.9
Armed forces
Total	100.0	100.0

According to the Integration Monitoring 2005, there were differences between ethnic groups as regards disposable income. In Tallinn these differences were even higher than the average level in Estonia (Table 16). In general many more Estonian citizens of minority origin were well-to-do as compared with non-citizens. This might be primarily explained by the availability of more personal and social resources for the members of this group of the minority population.¹³²

Table 16. Disposable income of ethnic Estonians and non-Estonians by income groups, 2005, %*¹³³

Income group/Ethnic group	Estonians		non-Estonians	
	<i>Estonia</i>	<i>Tallinn</i>	<i>Estonia</i>	<i>Tallinn</i>
Low (up to 2,500 Estonian Kroons)	37	25	42	31
Middle (up to 5,000 Estonian Kroons)	37	41	37	37
Higher (more than 5,000 Estonian Kroons)	16	25	11	15
No income	10	10	10	17

* *Only respondents who answered the question*

In Estonia, detailed requirements for Estonian language proficiency are established for the labour market. Due to international intervention, these requirements have recently been made more precise in scope and balanced in approach. According to Article 2¹ (2) of the Law on Language, linguistic requirements in the private sphere

¹³¹ Statistical Office of Estonia, *Labour Force 2003*, Tallinn, 2004, Table 37.

¹³² M. Pavelson, "Eestlaste ja eestivenelaste sotsiaalmajanduslik seisund: ootused ja muutused", in *Uuringu Integratsiooni Monitooring 2005 Aruanne*, Tallinn, 2005, p. 12.

¹³³ *Ibid*, p. 11-12.

shall be introduced in the public interest, which means “public safety, public order, general government, public health, health protection, consumer protection and occupational safety”. Knowledge and use of the minority language in the places where minorities are present in large numbers is not officially demanded in the public interest.

Persons who did not graduate from Estonian-language educational institutions may be asked to show a proficiency certificate. This document may be issued only after a special exam where an authorised commission has checked an individual’s oral, and written skills in Estonian. At the moment there are three levels of proficiency (Articles 5 and 5¹ of the Law on Language). The requirements for proficiency in Estonian language do not apply to persons who work in Estonia temporarily as foreign experts or foreign specialists (Article 5 (6)). The results of the official exams for middle and advanced level are relatively low and demonstrate the difficulties that Russian-speakers may experience in their access to higher employment positions in some private and, more importantly, the public sector (see Table 17).

Table 17. Percentage of persons who successfully passed the proficiency level tests in 2002 –2005, % of those participating in the tests¹³⁴

Level	2002	2003	2004	2005
Lowest level	74	77	72	57
Middle level	52	59	58	52
Advanced level	55	63	58	55

Since 1990s minority members have constantly voiced concerns regarding the activities of the Language Inspectorate, which controls the implementation of the official linguistic requirements. The Inspectorate makes regular raids to control, *inter alia*, the level of proficiency of workers in public and private domains. In 2003, 2,400 control acts were drafted by the Inspectorate, in 2004 – 2,371, in 2005 – 2,607.¹³⁵ For instance, in 2004 the Estonian language proficiency level of 513 teachers of Russian

¹³⁴ State Centre for Exams and Qualification; Information provided at the official web-site at <http://www.ekk.edu.ee>, (05.06.2006).

¹³⁵ Language Inspectorate; Data provided at the official web-site at <http://www.keeleinsp.ee>, (01.06.2006).

language schools was checked. The Inspectorate decided that 476 of them failed to meet the officially established requirements.¹³⁶

In the Second Opinion on Estonia (2005), the Advisory Committee on the Framework Convention for the Protection of National Minorities came to the conclusion that “the present language proficiency requirements are unrealistic in some sectors and do not fully take into account the practical situation in the sectors concerned, as is suggested by the extraordinarily high number of infringements of the [Law on Language] detected by the Language Inspectorate”.¹³⁷

Non-citizens with temporary residence permits (third countries nationals) can be employed only if they have work permits. Work permits are not required for persons with long-term resident’s residence permits, prisoners, crew of trains and drivers of vehicles engaged in the carriage of passengers or goods (Article 13¹ (4) of the Law on Aliens) and for Soviet era residents who applied for a residence permit before 12 July 1995 and received it (Article 20 (2)). The Law on Aliens now recognises the possibility of short-term employment (up to 6 months per year) without a work permit for teachers, scholars, sportsmen, etc (Article 13²).

According to the Law on Aliens a temporary residence permit may be received for employment in Estonia. However, the Law established rigid rules and procedures to ensure that a person can arrive to work in Estonia only if the country is lacking a specialist ready to take an offered job. For instance, before application for permission to invite a foreign worker is filed in the Labour Market Board, an employer should conduct a public competition in Estonia for at least two months making use of the services of a state employment agency (Article 13³ (2) of the Law on Aliens).

As it was mentioned before, third country nationals cannot work as state and municipal officials in Estonia. However, they can be employed as non-officials for auxiliary services in state and municipal institutions. Nevertheless, Estonian law additionally introduces a citizenship requirement for certain non-official positions.

¹³⁶ *Eesti Päevaleht*, (05.02.2005). Information of the Language Inspectorate.

¹³⁷ ACFC/INF/OP/II(2005)001, Advisory Committee on the Framework Convention for the Protection of National Minorities, *Second Opinion on Estonia adopted on 24 February 2005*, para. 164.

For instance, a non-citizen cannot be a rector of a public funded applied higher education institution.¹³⁸

In recent years the Citizenship and Migration Board has intensified its fight against illegal employment. Thus, in 2002 there were only 28 misdemeanour procedures initiated on this basis, while in 2005 this number was as high as 428.¹³⁹

3.7 Education

There were no considerable differences as regards educational level between ethnic Estonians and non-Estonians registered in the course of the national censuses in 1989 and 2000:

Table 18. Educational level of ethnic Estonians and non-Estonians, national census in 1989 and 2000, %¹⁴⁰

Educational level	1989		2000	
	Estonians	Non-Estonians	Estonians	Non-Estonians
Primary education	17	11	8	7
Basic education	24	19	23	18
Secondary education	26	31	34	37
Specialised secondary education	21	25	20	23
Higher education	12	14	15	15
Total	100	100	100	100

Before 1991 it was possible to receive education in Estonian or Russian at all levels in Estonia. Since the country regained independence, the opportunities of studying in

¹³⁸ Article 8 of the Law on Applied Higher Education Institution.

¹³⁹ Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 28.

¹⁴⁰ Calculations of Dr. Jelena Helemäe (Institute of International and Social Studies) on the basis of census data published in: Statistical Office of Estonia, *Population and Housing Census, Education and Religion IV*, Tallinn, 2002, Tables 10-12, 18-20.

Russian have been shrinking. At the moment, the public funded higher education institutions organise studies only in Estonian with a few exceptions for certain groups. Young people without good Estonian language may continue studies in ‘Russian’ higher education institutions which are private. However, these institutions do not normally have accredited programs of master and doctorate studies.

The right of minority members to publicly funded elementary and basic education in their mother tongue (Russian) is recognised by mainstream political parties in Estonia. As for upper secondary schools (forms 10-12), from the academic year 2007 Estonia will start a transition to Estonian as the basic means of instruction. After this date 60% of all work in minority upper secondary schools should be done in Estonian. The prolongation of the transition period may be permitted by the authorities to a school on an individual basis (Articles 9 and 52 of the Law on Basic School and Upper Secondary School). The proposed reform of secondary school is highly controversial for many minority members (see data of the Integration Monitoring 2005 in Table 19).

Table 19. Opinions of ethnic Estonians and non-Estonians regarding the 2007 reform of upper secondary schools, 2005, %¹⁴¹

Opinion regarding the reform	All respondents		Only young respondents (up to 29 years of age)	
	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians
A. A good decision; the opportunities of Russian youth will improve in Estonia	34	76	30	79
B. I have concerns regarding this decision; Russian youth may lose their identity, good proficiency in Russian and ties with Russian culture	57	9	55	6
No answer	9	15	15	15
Total	100	100	100	100

¹⁴¹ I. Pross, „Eestivenelaste keeleoskus ja suhtumine 2007. aasta gümnaasiumireformi”, in *Uuringu Integratsiooni monitoring 2005 aruanne*, Tallinn, 2005, p. 30.

The present official module of the 2007 school reform might be regarded as a compromise between the views most popular in the respective communities. However, this compromise is not appreciated by many minority members, regardless of their age. In September 2005 the Minister of Education and Research, Mailis Reps, made several statements to the effect that the transition of minority language upper secondary schools to Estonian as the language of instruction shall be as smooth as possible. The authorities decided that the following subjects are to be taught in Estonian in minority language schools to meet the 60% requirement: Estonian Language and Literature, Civic Education, History, Geography, and Music.¹⁴²

In December 2004, in the course of the special study 14% of Russian language schools principals questioned claimed that their institutions are 'well prepared' for the reform. 55% argued that their schools are 'partly prepared' and 31% - 'unprepared'¹⁴³. There are reasonable concerns that introduction of the reform in unprepared schools may result in higher drop-out rates as well as in a decline in terms of academic progress.

Regretfully, the Estonian Security Police seems to attribute any (potential) protests against the reform to foreign actors. In its 2004 Yearbook this institution claimed that "[i]n the long-termed perspective the aim of Russia is to maintain links with the Russian community residing Estonia predominantly through education and culture. As a result in 2004 the Russian Embassy in Tallinn actively tried to motivate the local Russian community against the Estonian education reform and to incite it to [relevant] actions"¹⁴⁴. The yearbook also describes the attempts to organise in Estonia actions of support against similar education reform in Latvia in 2004. The lack of public support to the 'solidarity actions' was characterised as a proof that Russian youth in Estonia regards the reform positively, regardless of the pressure of the Russian Federation.¹⁴⁵ The stance expressed in the 2004 Yearbook of the Security Police is evidence that protests against the 2007 reforms will be treated by the authorities in terms of security.

¹⁴² *Molodjezh Estonii*, (01.09.2005).

¹⁴³ P. Tammpuu, *Kakskeelne õpe vene õppekeeleaga koolides: hetkeolukord ja vajadused*, 20. detsember 2004, TNS Emor, Haridus- ja Teadusministeerium. Materials of the presentation on file with the author.

¹⁴⁴ Kaitsepolitsei, *Aastaraamat 2004*, Tallinn, 2004, p. 16.

¹⁴⁵ *Ibid*, p. 16-17.

In spite of the fact that the minority population is in general well educated, its young representatives are underrepresented among students of higher education institutions. Thus, according to the 2000 national census 9% of Estonians in the age group 15-19, 27% in the age group 20-24 and 9% in the age group 25-29 are studying in higher education institutions. For non-Estonians the relevant figures are 9, 18, and 5%.¹⁴⁶ The differences were even more evident at the level of master and doctoral studies.¹⁴⁷ In 2000-2005 the situation concerning the participation of non-Estonians in higher education might improve. For instance, in 2005, 2,145 graduates of Russian language upper secondary schools (out of 3,552) continued their studies in higher education institutions (as well as 5,445 (out of 8,406) graduates of Estonian language schools).¹⁴⁸

However, there are reasons to believe that the minority youth still experience difficulties in accessing certain types of education or certain educational institutions. Pupils studying in Russian language diurnal upper secondary schools make up some 1/3 among all pupils of such schools in Estonia¹⁴⁹ and non-Estonian speakers in all Estonian language schools make up only 3-4%,¹⁵⁰ thus there are reasons to expect that graduates of minority language schools should make up at least 1/4 of all students in particular higher education institutions. However, the share of graduates from Russian schools is remarkably small (1/10) in the Tallinn College of Engineering, Tartu Aviation College, Estonian Academy of Music, or Estonian Academy of Arts.¹⁵¹ There is no training in Russian in any of these institutions with the exception of one bachelor level program in the Estonian Academy of Arts. However, in the Estonian Agricultural University (all studies conducted solely in Estonian) graduates of Russian medium schools made up 17 % among bachelor level students.¹⁵²

¹⁴⁶ Master and doctoral studies not included. Statistical Office of Estonia, *Population and Housing Census, Education and Religion IV*, Tallinn, 2002, Tables 55, 79 and 80.

¹⁴⁷ Ibid.

¹⁴⁸ Ministry of Education and Research; Written communication no. 3.1-3/204 of 13 April 2006.

¹⁴⁹ Statistical Office of Estonia, public database at <http://www.stat.ee>, (01.07.2006).

¹⁵⁰ Ministry of Education and Research; Written communications no. 3.1-3/4172 of 3 August 2004 and no. 3.1-3/204 of 13 April 2006.

¹⁵¹ Tallinn College of Engineering; Written communication no. 1-8/142 of 5 September 2005; Tartu Aviation College; Written communication no. 1-8/123 of 9 August 2005; Estonian Academy of Music; Written communication no. 1-20/68 of 23 August 2005; Estonian Academy of Arts; Written communication no. KNTS-33/26-1 of 9 August 2005.

¹⁵² Estonian Agricultural University; Written communication no. 5-5/1036-2 of 9 August 2005.

In the prestigious University of Tartu the percentage of graduates of Russian language schools has increased almost threefold in 1997-2003.¹⁵³ The number of full-time students graduated from Russian language-schools has reached 1,760 in 2003 (in 1997 – 661¹⁵⁴). One of the reasons for this improvement was the opening of the Narva College of the University of Tartu in 1999, which is situated in Ida-Viru County where Russian-speakers constitute a majority. Nevertheless, in 2003 the share of Russian schools graduates in the University of Tartu was only about 1/10.¹⁵⁵

Among all public funded universities, a relatively high percentage of minority students are found in the Tallinn Technical University and in the University of Tallinn (former Tallinn Pedagogical University). In the 2005/6 academic year in these universities graduates of Russian medium schools made up ca 1/4 in the admittance. Both universities offer limited training in Russian during the first years of studies for minority pupils.¹⁵⁶

Under-representation of minority members among students of certain educational institutions may be a result of the remaining problem of low proficiency of young Russian-speakers in Estonian under the circumstances when the opportunity to obtain higher education in Russian is rather limited. In the 2000/1 academic year 12% of all students of Estonia studied in Russian.¹⁵⁷ In the 2005/6 academic year there were 10% of such students.¹⁵⁸ However, without doubts, the number of Russian-speakers capable to study in Estonian in colleges and universities has increased in the last 5-10 years.

¹⁵³ Ministry of Foreign Affairs, *Estonia Today: Russian-language Education*, February 2004, p.2, available at http://web-static.vm.ee/static/failid/016/Russian_language_education.pdf, (01.07.2006).

¹⁵⁴ Ibid.

¹⁵⁵ In the academic year 2002/3 the total number of students in the University of Tartu was 17,435: Statistical Office of Estonia, *Education 2002/2003*, Tallinn, 2003, Table 5.24.

¹⁵⁶ Tallinn Technical University; Written communication no. 2-12/1112 of 11 August 2005; University of Tallinn; Written communication no. 6-3/813 of 5 October 2005.

¹⁵⁷ Ministry of Foreign Affairs, *Estonia Today: Russian-language Education*, February 2004, p.2, available at http://web-static.vm.ee/static/failid/016/Russian_language_education.pdf, (01.07.2006).

¹⁵⁸ Ministry of Education and Research; Written communication no. 3.1-3/204 of 13 April 2006.

3.8 Official use of the minority language

Estonian is the first language for 3% of minority members and Russian – for 90% (2000).¹⁵⁹ Estonian legislation provides non-Estonian speakers with certain guarantees concerning official use of the minority languages (in practice, Russian).

According to Article 10 of the Law on Language (based on Article 51 of the Constitution),

if at least half of the permanent residents of a local self-government belong to a national minority, everyone has the right to receive answers from state agencies operating in the territory of the corresponding local self-government and from the corresponding local self-government and officials thereof in the language of the national minority as well as in Estonian.

Both citizens and non-citizens of minority origin can use the benefits of this provision. However, its implementation in practice is rather inconsistent.

Constitution (Article 52) and Law on Language (Article 11) foresee the possibility to use the minority language as a second official language “in local self-governments where the majority of permanent residents are non-Estonian speakers”. However, no local self-government received permission for bilingual work from the national Government according to the established procedure. For instance, in 2003, the Minister of Education officially informed Narva deputies (in reply to their inquiry) that an increased use of ‘foreign language’ in this city would be possible only when the use of the ‘State’ language is secured.¹⁶⁰ In 2000 Russian was the first language for 93% of the population of Narva.¹⁶¹

There is no obligation to use the minority language in consumer information (including information notes enclosed with drugs and dangerous goods) (Article 16).

¹⁵⁹ Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Table 48.

¹⁶⁰ *Severnoe poberezhje*, (18.06.2003).

¹⁶¹ Statistical Office of Estonia, *2000 Population and Housing Census: Citizenship, Nationality, Mother Tongue and Command of Foreign Languages II*, Tallinn, 2001, Table 15.

Regretfully, Russian is almost totally absent in street or public transport warning signs in Estonia (see also section 3.5 above).

As for the use of minority languages in Estonian courts, some concerns might be raised regarding the relevant provisions of the new Code of Civil Procedure (valid since 1 January 2006). Article 34(1) of the Code permits the parties to use translators. However, if the court cannot immediately find a translator, it may be made an obligation of a party non-proficient in Estonian. Importantly, if this party fails within certain time limits to find a translator or an Estonian-speaking representative, the court still may examine the case on merits (or if this party is a plaintiff, the case may be dismissed).

The problem may also arise regarding the language of legal actions and complaints. These days in most cases courts reject legal actions and complaints in Russian with the reference to the provisions regarding official court language. However, in some cases such complaints were accepted.¹⁶² To certain extent language related problems may be solved by application of the Law on State Legal Aid.

¹⁶² Information provided by Andrei Arjupin, chief legal advisor of the Legal Information Centre for Human Rights (01.07.2006).

RECOMMENDATIONS

Estonia is a multiethnic state with high proportion of non-citizens in its population. However, the problems of ethnic non-discrimination are not addressed in the official ethnic and migration policies.

We recommend incorporating non-discrimination related issues into the new integration program and to monitor regularly official ethnic and integration policies from the perspective of equality.

There is no comprehensive system of collecting discrimination-related data in any spheres of public life in Estonia by official or semi-official bodies. There were no attempts to develop such systems in recent years. However, there is statistical evidence that this is a problem currently in certain areas and in particular geographical regions of the country.

We recommend creating systems to collect discrimination-related data, especially in the labour market, in education and as regards access to publicly available goods and services.

The Estonian law-enforcement institutions have not established any comprehensive system to monitor and investigate ethnically and racially motivated crimes, partly due to a 'grey area' in the national legislation. Additionally, as a result of the 2006 changes in the criminal law, provisions regarding incitement to ethnic hatred (including hate speech) became quite limited in material scope.

We recommend creating a comprehensive system of monitoring and investigation ethnically and racially motivated crime, backed up by specialised training of police officers on a permanent basis. Comprehensive protection against all types of incitement to ethnic hatred (and particularly against public hate speech) should be restored in the criminal law. Special attention should also be paid to potentially dangerous right-wing radical groups.

The work of the Estonian equality body, the Legal Chancellor, should be enhanced. There is no statistical data to establish the efficiency of this institution in the field of non-discrimination in spite of positive changes in national legislation in 2003-2004.

We recommend studying the practises of the Legal Chancellor's Office and the legal norms that regulate its work to identify reasons for the low interest of the Estonian population (especially minority members) towards the procedures available to fight racial and ethnic discrimination (including conciliation procedures).

There is statistical evidence that in Estonia minority members may be under-represented in prestigious positions in the labour market, especially in high-ranked officialdom, and in higher education establishments.

We recommend analysing thoroughly situation in these fields to remove any remaining obstacles for minority members. Furthermore, we recommend employing official positive action measures to promote full participation of ethnic non-Estonians in all spheres of employment and education.

The requirements of Estonian language proficiency and the obligation to use the official language may be justified in certain areas of social life. However, valid regulations hardly take into account the personal abilities of non-Estonian speakers and almost totally ignore a regional approach to the problem. Naturalisation requirements (which are normally based on language exam) are regarded as tough and humiliating by the majority of non-citizens.

We recommend monitoring the official linguistic policies in order to protect Russian-speakers and other minorities from unfounded and disproportionate control over use of languages at work, in public places, and in contacts with public administration. Naturalisation of non-citizens (especially residents from the Soviet period) should be as simple as possible and consideration should be given to dropping the requirement of a language exam.

ANNEXES

ANNEX I

Index of the Estonian Laws Referred to in the Report

English version of the title of the legal act	Estonian (original) title of the legal act	References to the official State Gazettes
Code of Civil Procedure	<i>Tsiviilkohtumenetluse seadustik</i>	RT I 2005, 26, 197; RTI 2005, 49, 395.
Constitution of the Republic of Estonia	<i>Eesti Vabariigi põhiseadus</i>	RT 1992, 26, 349
Law of the Republic of Estonia on Employment Contracts	<i>Eesti Vabariigi töölepingu seadus</i>	RT 1992, 15/16, 241
Law on Advertising	<i>Reklaamiseadus</i>	RT I 1997, 52, 835
Law on Aliens	<i>Välismaalaste seadus</i>	RT I 1993, 44, 637; RT I 1999, 50, 548; RT I 2004, 58, 410.
Law on Applied Higher Education Institution	<i>Rakenduskõrgkooli seadus</i>	RTI 1998, 61, 980; RT I 2003, 33, 207.
Law on Basic School and Upper Secondary School	<i>Põhikooli- ja Gümnaasiumiseadus</i>	RT I 1993, 63, 892, RT I 1999, 42, 497
Law on Churches and Congregations	<i>Kirikute ja koguduste seadus</i>	RT I 2002, 24, 135
Law on Citizenship	<i>Kodakondsuse seadus</i>	RT I 1995, 12, 122
Law on Citizen of the European Union (invalid since 1 August 2006)	<i>Euroopa Liidu kodaniku seadus (kehtetu alates 01.08.2006)</i>	RT I 2002, 102, 599
Law on Citizen of the European Union	<i>Euroopa Liidu kodaniku seadus</i>	RT I 2006, 26, 191
Law on Cultural Autonomy of National Minorities	<i>Vähemusrahvuse kultuuriautonomiamiseadus</i>	RT I 1993, 71, 1001
Law on Election of Local Self-government Council	<i>Kohaliku omavalitsuse volikogu valimise seadus</i>	RT I 2002, 36, 220
Law on European Parliament Election	<i>Euroopa Parlamendi valimise seadus</i>	RT I 2003, 4, 22

Law on Gender Equality	<i>Soolise võrdõiguslikkuse seadus</i>	RT I 2004, 27, 181
Law on Granting International Protection to an Alien	<i>Välismaalasele rahvusvahelise kaitse andmise seadus</i>	RT I 2006, 2, 3
Law on Language	<i>Keeleseadus</i>	RT I 1995, 23, 334
Law on Legal Chancellor	<i>Õiguskantsleri seadus</i>	RT I 1999, 29, 406
Law on Non-Profit Organisations	<i>Mittetulundusühingute seadus</i>	RT I 1996, 42, 811, RT I 1998, 96, 1515
Law on Obligation to Leave and Prohibition on Entry	<i>Väljasõidukohustuse ja sissesõidukeelu seadus</i>	RT I 1998, 98/99, 1575, RT I 2001, 68, 407
Law on Public Meetings	<i>Avaliku koosoleku seadus</i>	RT I 1997, 30, 472
Law on Public Service	<i>Avaliku teenistuse seadus</i>	RT I 1995, 16, 228; RT I 1999, 7, 112
Law on Refugees (invalid)	<i>Pagulaste seadus (kehtetu)</i>	RT I 1997, 19, 306
Law on Riigikogu Election	<i>Riigikogu valimise seadus</i>	RT I 2002, 57, 355
Law on State Legal Aid	<i>Riigi õigusabi seadus</i>	RT I 2004, 56, 403
Law on Wages	<i>Palgaseadus</i>	RT I 1994, 11, 154
Criminal Code (invalid)	<i>Kriminaalkoodeks (kehtetu)</i>	RT 1992, 20/22, 287, RTI 1999, 38, 48
Penal Code	<i>Karistusseadustik</i>	RT I 2001, 61, 364, RT I 2002, 86, 504

NOTE: most of the texts of these laws are available on the Internet at: <http://www.riigiteataja.ee> (in Estonian) and <http://www.legaltext.ee> (in English).

ANNEX II

List of requirements to citizenship applicants to know Estonian language, the Estonian Constitution and the Law on Citizenship

The Law on Citizenship reads as following:

“Article 8. Requirements for and assessment of knowledge of Estonian language

(1) For the purposes of this Law, knowledge of the Estonian language means general knowledge of basic Estonian needed in everyday life.

(2) The requirements for knowledge of the Estonian language are as follows:

- 1) listening comprehension (official statements and announcements; danger and warning announcements, news, descriptions of events and explanations of phenomena);
- 2) speech (conversation and narration, use of questions, explanations, assumptions and commands; expressing one's opinion; expressing one's wishes);
- 3) reading comprehension (official statements and announcements; public notices, news, sample forms, journalistic articles, messages, catalogues, user manuals, traffic information, questionnaires, reports, minutes, rules);
- 4) writing (writing applications, authorisation documents, letters of explanation, *curriculum vitae*; completion of forms, standard forms and tests).

(3) Knowledge of the Estonian language is assessed by way of examination. The procedure for the holding of the examinations shall be established by the Government of the Republic.

(4) A person who passes the examination shall be issued a corresponding certificate.

(5) Persons who have acquired basic, secondary or higher education in the Estonian language are not required to pass the examination.

...

Article 9. Requirements for and assessment of knowledge of the Constitution of the Republic of Estonia and Law on Citizenship

(1) A person who wishes to acquire Estonian citizenship by naturalisation shall have knowledge of:

- 1) the general principles of the Estonian public order which is provided for in Chapters I and III of the Constitution of the Republic of Estonia;
- 2) the fundamental rights, freedoms and duties of every person which are provided for in Chapter II of the Constitution of the Republic of Estonia;
- 3) the competence of the *Riigikogu*, the President of the Republic, the Government of the Republic and the courts in accordance with the Constitution of the Republic of Estonia;
- 4) the conditions and procedure for acquisition, resumption and loss of Estonian citizenship in accordance with the Law on Citizenship.

(2) Knowledge of the Constitution of the Republic of Estonia and the Law on Citizenship is assessed by way of examination which shall be held in Estonian. The procedure for the holding of the examinations shall be established by the Government of the Republic.

...”

ANNEX III

Persons who cannot receive Estonian citizenship

The Law on Citizenship reads as following:

“Article 21. Refusal to grant or refusal for resumption of Estonian citizenship

(1) Estonian citizenship shall not be granted to or resumed by a person who:

- 1) submits false information upon application for Estonian citizenship or a document certifying Estonian citizenship, and thereby conceals facts which preclude the grant of Estonian citizenship to him or her, which preclude him or her from resuming Estonian citizenship or which would have precluded the issue of a document certifying to Estonian citizenship to him or her;
- 2) does not observe the constitutional order and laws of Estonia;
- 3) has acted against the Estonian State and its security;
- 4) has committed a criminal offence for which a punishment of imprisonment of more than one year was imposed and whose criminal record has not expired or who has been repeatedly punished under criminal procedure for intentionally committed criminal offences;
- 5) has been employed or is currently employed by foreign intelligence or security services;
- 6) has served as a professional member of the armed forces of a foreign state or who has been assigned to the reserve forces thereof or has retired therefrom, and nor shall Estonian citizenship be granted to or resumed by his or her spouse who entered Estonia due to a member of the armed forces being sent into service, the reserve or into retirement.

(1¹) By way of exception, Estonian citizenship may be granted to or resumed by a person who has been repeatedly punished under criminal procedure for intentionally committed criminal offences, whose criminal record has expired, considering the circumstances of committed criminal offences and the personality of a guilty person.

(2) Estonian citizenship may be resumed by or granted to a person who has retired from the armed forces of a foreign state if the person has been married for at least five years to a person who acquired Estonian citizenship by birth and if the marriage has not been divorced.

(3) Estonian citizenship shall not be granted to a person whose parents, adoptive parent, guardian or guardianship authority submitted, upon application for Estonian citizenship for the person, false information concerning facts which are relevant in the taking of a decision on the grant of Estonian citizenship.”