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PREFACE

There is no doubt that the April events concerning the Bronze Soldier will become a benchmark in the contemporary history of the state of Estonia. It is the bifurcation point, the point of division, separating ‘before’ and ‘after’. For Estonian society these events are even more important than joining NATO or European Union. Before April 2007 we lived in one country and now we are getting used to living in another one. Or were these merely illusions and as Eugeny Golikov wrote «the world has not changed, it has just partially revealed its face» («Tallinn», no. 2-3, 2007)?

Before April 26, 2007 we, the population of Estonia, believed that we lived in a democratic country, with proper separation of powers, with efficiently balanced executive and legislative powers, with independent courts, a free press, social control over government, in particular over the security agencies, and so on.

After April 26 it turned out that not all this was true, or was not exactly true, or was even false. It turned out that some mechanisms, considered deeply rooted in the democratic society, had no effect and some procedures were easily abandoned. Just one example: by order of the Police Prefect, all public rallies and meetings in Tallinn were prohibited from April 30 till May 11, 2007 and it did not result in any protests or even questions, although this was a *restriction of the constitutional right* to express opinions, the right of peaceful assembly, rally and demonstration. Of course, in exceptional circumstances these human rights may be restricted but certainly it is beyond the authority of a police prefect. Meanwhile the government was not concerned about this usurping of their authority, therefore allowing (or creating) a threatening precedent.

This publication does not aim at making a comprehensive analysis of the situation. As a human rights organization, the Legal Information Centre for Human Rights deals with the legal aspects of the situation, moreover mainly those aspects where LICHR was directly involved. Primarily, it constitutes an analysis of the government and police actions during the crisis. We also include a chronological review of the events, so that our readers have a better understanding of the social and political context of the situation. Since the legal proceedings against those accused of organising a mass riot are still pending and we await its conclusion, we believe that the time has not yet arrived for definitive conclusions. For the present, we can state that we consider the prosecution case poorly founded.

The situation when the Estonian authorities refuse to carry out a thorough and impartial investigation of people’s claims about cruel police behaviour is very dangerous and contrary to the standards of an EU member state. Thus the authorities have ignored requirements of the international human rights community, namely those of the International Helsinki Federation for Human Rights (IHF) and the International Federation for Human Rights (FIDH) (see annex II). Such refusal of investigation and analysis prevents the law enforcement and security agencies from «correcting mistakes», and complicates and nullifies the civil monitoring of their activities. Finally it causes a violation of one of the basic human rights – the right of access to justice.

One might suppose that violations of human rights mentioned in this report are merely *mistakes* committed by some officials (ministers, police chiefs and officers, or even judges), and a refusal to investigate is an attempt to preserve *esprit de corps*. But the sequence of events leading to the April crisis, taken as a whole, makes independent observers raise questions that have no

clear answers. Mainly these are questions about the decision-making procedures and methods applicable in a democratic society.

The introduction and development of democratic institutions in the Republic of Estonia were relatively peaceful but not completely free of conflict. There also were some crises caused by reasons far more serious than this one. But until now we have managed to avoid mass violence. We thought, and not without reason, that the interactions between the state and the society, and between the authorities and groups of minorities had produced a culture of dialogue and compromise, the understanding how to avoid extreme positions and make mutual concessions, even at the last moment. In 1993, a special institution – a Round Table for national minorities – was formed by the President of the Republic of Estonia Lennart Meri in order to establish and maintain a dialogue with representatives of the national minorities, and Estonian authorities regularly refer to this institution in their reports to international organisations. But neither Andrus Ansip, the Prime Minister, nor Toomas Henrik Ilves, the President, ever considered discussing this problem at the Round Table. It is worth mentioning that the Round Table has never had meetings under the current presidency.

During 2006-2007, «Night Watch», an organisation of the Bronze Soldier monument's defenders, and some other civic organisations tried several times to initiate discussion and express their views to the national government, but none of the officials responded to their invitation. However, the Tallinn city authorities, in particular Toomas Vitsut, the head of the City Council, arranged for a special round table in summer-autumn 2006 trying to initiate a dialogue and find a compromise solution. Jaak Aaviksoo, the Defence Minister and representative of the government, participated in this 'dialogue' only once – on April 26, 2007, several hours before breaking up the street meeting. The Ansip government also ignored the opinion of the Tallinn municipality, which objected against relocation of the monument, and the warnings of scientists – sociological, political and cultural scientists, who addressed an open letter to the Prime Minister.

The consistent refusal of government representatives to engage in a dialogue is noteworthy. For example, Tõnis Saarts, a professor at Tallinn University, perplexedly asked: «Why did you reject dialogue and behaved as though you were driving a tank?» (*Delfi, May 1, 2007*).

Alexander Astrov, a political scientist, suggested the answer in his reply to Ansip's interview in May, after the events. «Answering the question about the chances of dialogue, Ansip again said that dialogue had been impossible from the very beginning, because the Russians would not have agreed to relocate the monument. It means that Ansip admitted that he did not think and had never even thought of a chance that he might have had to change his position. [...] No dialogue with this administration is possible, because they do not see the principle difference between dialogue and command. And the essence of this administration, at least as Ansip sees it, is rejection of any dialogue» (*Delfi, May 16, 2007*).

If this conclusion is true, we have to acknowledge that the above mentioned culture of dialogue and compromise, as an achievement of the Estonian democracy, is jeopardised. The way of making decisions, shown by the Ansip's government, is peculiar for authoritarian regimes. Some observers and analysts, such as social scientist Juhan Kivirähk and philosopher and political scientist Eugeny Golikov go even further and accuse the government of a conscious provocation aimed not to prevent but to inspire illegal actions and thus discredit its opponents («*Tallinn*», no. 2-3, 2007, *Delfi, April 30, 2007*). However, detailed analysis of such accusations and making our own judgments are not the aims of this publication. We can only admit that fears for the destiny

of democracy in Estonia do have some grounds, to say the least. And we feel these fears for what we think is our field of activity – defending and promoting human rights. Therefore, concluding this short preface, I cannot but share my anxiety concerning the negative trend that has recently been revealed.

The Legal Information Centre for Human Rights has accrued a vast experience (several hundred trials, most of them won), representing our clients in court. On the basis of this experience, until recently we have been glad to stipulate, including in our reports to international institutions, that Estonian courts on the whole were independent, not influenced by the political situation or pressure from the executive authorities. Thus it came as an unpleasant surprise that the Tallinn Circuit Court refuse to initiate, at the request of victims, criminal cases against the police officers involved in acts of brutality. While we might have expected that the Police Prefecture would not initiate proceedings against its own personnel, the position of the Prosecutor's office was less clear cut. But the court's refusal to grant the victims even an opportunity for an impartial investigation, represents the very dangerous precedent of denying access to justice. We have to hope that it was a stand-alone precedent and not part of the above-mentioned trends.

Aleksei Semjonov

WAR OF THE MONUMENTS: A CHRONOLOGICAL REVIEW

In 2002 a monument to Estonians, fighting on the side of Germany during the Second World War, stood in Pärnu, a resort town, for 9 days. The plate on the monument said that it was erected in memory of «all the Estonian soldiers fallen in the Second Liberation War for their motherland and free Europe in 1940-1945». The monument was removed in response to pressure by the central authorities, worried about the image of Estonia abroad. In 2004 the same monument was going to be opened again in Lihula, a small town in West Estonia. After some alterations it took the form of a bas-relief of a machine gunner, wearing an SS uniform, a helmet and with a «Cross of Freedom» order and a German «Iron Cross» decoration on his regimental uniform. The Lihula authorities initially planned to place the monument beside the secondary school, but later decided to put it at the local cemetery – opposite the monument to Soviet soldiers, which was erected on their common grave. Prime Minister Juhan Parts, primarily for reasons of foreign policy, tried to put pressure upon the Lihula authorities, but without any success. Tiit Madisson, a district elder, who became the central figure in this conflict.

Tiit Madisson won peculiar fame as far back as the times of Perestroika: a Soviet dissident, he organized the first major street demonstrations of the supporters of independence for Estonia (for example, a well-known meeting in Hirve Park in 1987). However, he could not become a part of the post-Soviet Estonian political elite. In 1994 Tiit Madisson created the Central Union of Nationalists, which declared it the successor to the semi-fascist populist movement in pre-war Estonia. During the parliamentary elections the Central Union received only 0.9% of the votes. In 1996 Tiit Madisson printed «The fate of Estonia?» memorandum which refers to an Army of Liberation, with the aim of establishing a nationalist dictatorship. At that time Tiit Madisson also held a number of meetings with some top officials and discussed the possibility of committing a coup d'état with them. Some officials reported this to the Security Police and on 1 June 1996 Tiit Madisson was arrested. Later the court found him guilty of preparing for a take-over of the country by force. However, in November 1997 Tiit Madisson fell under a parliamentary act of amnesty, which was passed specially for him.

In October 1999, after winning the local elections, Tiit Madisson became a member of the district (parish) council in Lihula (West Estonia). The events which followed the erection of the monument were described in detail in his book «The Lessons of Lihula. Creation of the New World Order in Estonia: History Remodelling and Suppression of Nationalism» (Lihula, 2005). It is important to state that from an early stage Tiit Madisson took an interest in the theme of a universal plot and energetically exchanged his thoughts with a wide circle of Estonian society. In 2004 his book «New World Order: Hidden Activity of Judaists and Free Masons in Subjugation of Nations and States» (Lihula, 2004) came out. His book on the Holocaust, which appeared in 2006 («Holocaust: The Most Distressing Zionist Lie of the XX c.» (Lihula, 2006), like Tiit Madisson's other corresponding works, are mainly compilations of the works of more well-known 'experts' on the same subjects.

Despite a police prohibition, the monument was unveiled on 20 August 2004, a national holiday – the anniversary of the restoration of independence in Estonia (the corresponding declaration was passed in Tallinn on 20 August 1991 during the August putsch in Moscow). A few dozen Estonian Waffen-SS veterans were present, as well as several neo-Nazis. The

unveiling went off without any excesses, apart from a verbal duel between the guards of this public event and Russian-speaking media representatives. The opening of the monument was widely publicised, not only in Russia, but also in the Western European countries. However, the monument stood only for two weeks. It was removed on 2 September 2004 according to the decision of the government. Formally it was the fact that the monument was erected on public lands without proper authorisation. The process of dismantling the monument struck the Estonian residents' imagination: it took place at dusk; moreover, the location was surrounded by police with dogs. The agitated crowd (mainly teenagers) started to throw stones at the crane, which resulted in injury to the crane operator.

The Estonian press stated that the removal was hastily carried out just before a meeting of foreign ministers of the EU member-states. The Foreign Minister of Estonia Kristiina Ojuland, who anticipated violent criticism from her colleagues, allegedly demanded its removal. It is also known that there was pressure on the cabinet by the US embassy in Tallinn. In a special announcement the government's attitude was explained as follows: «The government highly appreciates the bravery of the people who, during various occupations, fought for the independence and freedom of Estonia and thinks that immortalisation of their memory is important...». However, this should be done «with dignity, respecting the real aims and motives of those people, not a uniform, forced upon them by somebody else» (*press release of the governmental press office of 2 September 2004*).

The nationalist parties and some public figures immediately came out with fierce criticism of the cabinet. A telephone poll held by the sociological company Faktum showed that the opinions of ethnic Estonians and Russians (Russian-speaking people) on this subject were totally different: 58% of the Estonians called the actions of the government unjust (in comparison with 29%) and 25% of the Russians (in comparison with 64%). In the Estonian ethnic group quite many people opposed to the authorities were young (15-29 years old) or had a primary education (BNS, 6 September 2004).

As far back as 10 September 2004, the government of Estonia expressed their regret that the decision concerning the removal of the Lihula monument «caused a burst of emotions and clashes of the local inhabitants with the police and workers of the Rescue Board» (BNS, 10 September 2004). A week later the government made a decision about the necessity of public regulation for the commemoration of everyone «who fell, while fighting for freedom of Estonia» (BNS, 17 September 2004). Nevertheless, a sociological poll at the end of September showed that owing to the Lihula events, the level of confidence in the government among ethnic Estonians fell drastically. At the same time confidence in the authorities rose to some extent among ethnic Russians. The government of Juhan Parts resigned in April 2005.

The installation and removal of the Lihula monument and the subsequent events prepared a fertile ground for the growth of tension between ethnic groups and intensified still further a split of society on ethnic grounds. The specialists in semiotics, who studied the monument by the police order, reached the conclusion that it did not glorify Nazism. Nevertheless, «a deviation of what is considered good practise lead to an extremely controversial interpretation of the meaning of the monument and a conflict at its location» (BSN, 30 September 2004). On the grounds of this expert report an investigation, started on the suspicion of incitement of ethnic hatred, was dropped by the police due to the absence of criminal elements in the act. The Lihula inhabitants' resistance to the police also did not result in any severe penalties.

Later, in October 2005, the Lihula bas-relief was erected on the territory of the private war museum in Lagedi, near Tallinn; Tiit Madisson was present at its opening as a guest of honour. In addition, at the instigation of the Estonian government, a new monument appeared in Maarjamäe, Tallinn: three large crosses, with plates alongside bearing the names of German military units, including the Estonian Legion (20-th division of SS). According to the official version of events, these are the military units, in which, Estonians struggled for the freedom of their country.

The direct consequence of the events in Lihula was mass desecration of monuments and obelisks to Soviet soldiers throughout Estonia (that was immediately called «the war of the monuments»). The first one to suffer was the monument to the Red Army soldiers in Lihula itself, followed by monuments on the island of Saaremaa, in the towns of Pärnu, Rakvere, Haapsalu, and in Tuudi, Konga, Surju, Mäksa and other places monuments were smeared with paint (mainly with inscriptions like «Long live Comrade Parts!»). In response to this, the memorial plaque in honour of the mass meeting held on 23 August 1987 in Hirve Park in support of Estonian independence, was desecrated with a picture of swastika. Throughout September 2004 high-ranking persons made numerous statements to try to calm public opinion, using familiar arguments. Thus the Minister of the Interior Margus Leivo explained to the desecrators of the monuments to Soviet soldiers: «Everyone, who hopes to solve the problem in this way, must understand that he actually brings grist to the mill of Russian propaganda» (*Delfi, 6 September 2004*).

In September 2004, supporters of the official removal of monuments to Soviet soldiers became more active. For example, Isamaaliit (Pro Patria) made an appeal to dismantle 'the Bronze Soldier' from Tõnismägi in Tallinn. The monument stood in the centre of the capital on municipal land, and the city authorities, in spite of numerous discussions, still had not made a decision about the removal or transfer of the monument. But the monument itself had been altered during the previous decade. First, the 'eternal light' in front of the Bronze Soldier was extinguished. Then the plates with the soldiers' names were removed, but at the same time some plates with inscriptions in Estonian and Russian appeared, which changed it to a monument to all the fallen in the Second World War. The monument represented a figure of an Estonian soldier in a Soviet uniform, with a Soviet Great Patriotic War order above his head.

Since the Lihula monument was criticized by many for its German uniform and Iron cross, «pointing out a totalitarian regime», demands were heard for the removal of the Bronze Soldier for the same reasons. In 2004 protest actions against 'alien monuments' were not numerous.

Although the re-planning of the area around the Bronze Soldier resulted in the disappearance of a large paved site beneath it, thousands of people laid flowers at its base every year on 9 May. Russian veterans of the Second World War also gathered around the monument on 22 September (on that day the Red Army units entered Tallinn in 1944). Both of these annual, public events extremely irritated part of Estonian society and aroused the interest of the local special services.

A number of incidents also took place in the spring of 2005 in Estonia:

- On the night of the 1st and 2nd of April the walls of a block of flats in Lasnamäe, a Tallinn neighbourhood where mostly Russian-speaking people live, were covered with anti-Russian slogans and fascist symbols. The inscriptions included: «Why didn't Germany win (1943)?»,

- «Russians, respect Estonian customs or go home to Russia», «Remove the Tõnismäe occupant and **** it», etc. (*«Molodjezh Estonii»*, 5 April 2005). The culprits were not found.
- On 4 April 2005 it emerged that in connection with an action held by the Russian Party of Estonia (thousands of ribbons were attached to the metal fence of Tallinn road in Narva in memory of those who perished in the Second World War) the police initiated proceedings concerning an administrative violation. According to high commissioner Ranne, this public event was not properly registered.
 - Early in the morning of 9 May 2005, the monument to the Red Army soldiers at Tõnismägi was covered with red paint. After a period the police detained an Estonian-speaking man who, during the interrogations, claimed that two Russian-speaking people incited him to desecrate the monument and offered to pay him 20,000 kroons (about 1,300 euros). It is known that the police and public prosecutor's office examined Russian contacts of the suspect. Later the suspect withdrew his evidence and was released by the police (*Delfi*, 9 and 14 May 2005, «*SL-Õhtuleht*», 14 May 2005).
 - On 7 May 2005 the German military cemetery in Narva was desecrated. On 9 May the monuments to Soviet soldiers were desecrated in Rakvere. On 11 May in Narva the monument to the victims of the bombing carried out by the Soviet aviation in 1944 was overturned.

On 9 May 2006 the Tallinn authorities sanctioned two public events beside the Tõnismäe monument: laying wreaths from the veteran organizations, and a picket of opponents of the monument. The picket consisted only of a few people, who were holding a national flag and a home-made poster in Estonian: «Estonian people, don't forget: this soldier occupied our land and deported our people». After standing by the edge of the crowded square for a few minutes, the picketing group was pushed out to the road, from where they were evacuated in a police van.

Before 2006 the Estonian-language press did not pay any special attention to the celebration of 9 May in Estonia. However, in that year the events around the Bronze Soldier were reported in some detail and from a negative perspective. On 20 May 2006 a few hundred people held a 'patriotic action' beside the Bronze Soldier. As well as the organisers of the 9 May picket and Tiit Madisson's supporters, many ethnic Estonians of different ages with national flags came to the monument. A small group of young skinheads with German military symbols on their clothes was also present, as well as a small group of Russian-speaking people who were radically opposed to 'the enemies of the monument'. According to the authorities, this public event took place, on the whole, without any disturbances, except for some attempts to throw a loop over the Bronze Soldier's neck. One of the participants in the event climbed onto the statue, waving a flag. In the evening of the same day, the monument was smeared with paint of the colours of the Estonian flag. At Põhja police prefecture proceedings were initiated against Tiit Madisson, since the mass meeting of 20 May 2006 was not registered with the city council, according to the appropriate law.

During the following week, a so-called «Night Watch» began around the Bronze Soldier – young Russian-speaking volunteers came to protect the monument from vandals. This movement, which came into being spontaneously, later grew into an organization.

Then the opponents of the monument announced their intention to have a picnic on 27 May 2006 beside the Bronze Soldier. In opposition, appeals spread among young people from the Russian community to come to the monument and fill the space in front of it, making the opponents' event impossible. The Tallinn police acted very efficiently and prevented a clash of dozens of people, who came to the Bronze Soldier: the Estonian and Russian parts of the crowd were separated from

each other, after which the Russians were pushed out to the side of one of the central city squares. There were many young people on both sides. The Russians came to the monument with little flags of the European Union, while the Estonians were carrying national flags.

According to the witnesses' evidence, a column of Russian-speaking people was leaving accompanied by cries «Russian fascists – out!». Since they were not allowed to lay flowers in front of the Bronze Soldier, instead the Russians covered the pedestal of the Clock of Freedom – a monument to the day of declaration of Estonian independence. After these events the authorities put a fence by the square near the Bronze Soldier monument and posted a police patrol there.

The opinions of Estonian politicians were split regarding the monument's destiny. The leader of the Centre party, Edgar Savisaar, was against its transfer (his party holds power in Tallinn municipal administration), while a number of other politicians supported radical measures. It is noteworthy that Estonian Prime Minister Andrus Ansip (the Reform party) changed his mind in a short period. On 9 May 2006 he said that he was against transferring the monument, since it is situated by a grave. However, on 25 May he told journalists that it should be transferred. In the Prime Minister's opinion, the Bronze Soldier on Tõnismägi had become a symbol opposed to the Estonian Republic, a symbol of occupation and not a monument to war victims. Ansip's statement provoked young people inclined to nationalism and skinheads' public actions «in support of the prime minister's decision» (for example, on 2 June 2006).

On 8 June 2006 Andrus Ansip addressed participants in a meeting of fighters for freedom, addressing his words mainly to those who served in the German army during the war and also to the 'forest brothers': «Your fight is a heroic deed that must be highly admired 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 among yourselves: we lost the battle, but we won the war in the end!» (*press release of the state press office of 8 July 2006*).

The Bronze Soldier's destiny was actively discussed in the Estonian- and Russian-language press. According to the authors of a special monitoring report, carried out at the request of the Non-Estonians' Integration Foundation in May-July 2006, «among the statements in [the media] the prevailing ones were that ethnic Estonians' attitude to the transfer of the monument is opposite to that of ethnic Russians and that the Bronze Soldier as a monument of occupation should not be situated in the city centre. In addition, in the Russian-language media a prevalent opinion is that the wish of Estonians to transfer the monument is nationalistic (if not fascist) in its substance. Hence the conclusion follows that both in the Estonian and Russian language media-space a national consciousness plays a very important role in arguments for or against the transfer of the monument».

On 21-22 October 2006 in Tallinn there was an approved meeting of nationalists, as well as an administratively punishable 'illegal' meeting of socially active Russian young people carrying flowers and candles, opposite the fencing around the Bronze Soldier. On 9 October 2006 an access to the monument was opened. Presumably, it was done just before the Queen of England's official visit.

In the autumn of 2006 two bills initiated by the Reform party and their supporters aimed to solve the problem of the demolition/transfer of the monument. In contrast, before the

Parliamentary elections, the Centre party, that controlled the Tallinn municipal government, and has recently been popular with Russian-speakers, did not want to take any radical steps which would not be understood by Russian-speaking electors.

The first of these bills – no. 1000 – proposed a special Law on the Demolition of Forbidden Structures, which would forbid the display or installation in public places of a monument, a work of monumental art or an object: glorifying states which had occupied Estonia or their military forces; inciting enmity; calling to commit an offence; or which could lead to a breach of peace. In order to demolish such a structure, monument, etc. the Minister of Justice would be given specific authorities, supported by a possibility of imposition of fines. The second bill – no. 1001 – proposed a special Law on Military Graves Protection, with reference to the protocol to the Geneva Convention of 1949.

The law on forbidden structures was adopted on 15 February 2007. In its final version it contained direct references to the Bronze Soldier and provided for the removal of the monument during the first 30 days from the law's entry into legal force. The President of Estonia decided not to promulgate it.

The Law on Military Graves Protection, which was enacted a month earlier – on 10 January 2007 – was supported by representatives of all the parliamentary factions. Only several Estonian and Russian-language deputies of the Centre party voted against it. The Russian deputies of the Reform party were present but did not take part in the vote. The law has a reference to article 34 of the First Protocol additional to the Geneva Convention of 1949 but contains extended interpretation of the corresponding theses. Reburial of mortal remains, according to the Estonian law, permits the transfer of 'burial structures' as well (article 10).

On 15 February 2007 Parliament also voted on amendments to the Law on Holidays and Anniversaries. Only eight Russian and Estonian-language deputies from the Centre party voted against them. 63 votes, including a Russian deputy from Res Publica, were for them. The Russian deputies from the Reform Party again did not express their opinion. The bill concerned 22 September as a memorial date. As stated above, during the Second World War the Red Army entered the Estonian capital on 22 September 1944 and representatives of the Russian community commemorate «liberation of the city from fascists». According to the Estonian official interpretation, this day can also be considered as the beginning of the «second Soviet occupation».

Generally speaking, there were several initiatives on this subject in the Estonian Parliament. On 15 November 2005 the Parliament excluded from procedure a bill prepared by Isamaaliit (Pro Patria), which not only planned to declare 22 September a day of mourning but also to prohibit any incompatible public events on this day. Declaration of 22 September as one more officially commemorated day of mourning could provoke additional tensions between the communities in the capital city and was apparently declined for this reason. Nevertheless, on 24 November 2005 Pro Patria tabled a new bill with similar content. The bill did not pass the first reading on 7 February, but on the same day the ruling parties – the Centre and Reform parties and the People's Union of Estonia – initiated their bill. They offered to declare 22 September «the day of memory of sufferings connected with occupation», but did not plan to impose a ban on public events on this day.

However, the bill regarding 22 September, offered by the parties of the governmental coalition, was not enacted. Finally, the elected members of Pro Patria and Res Publica (these two political forces have now united) tabled a new bill, which simply declared 22 September «the day of memory of resistance». In this form it was enacted by the Estonian parliament.

The theme of the various interpretations of the outcome of the Second World War was also broached in the last annual report of the security police (KAPO), an Estonian special service. In the 2005 report a special section of the chapter «Protection of the constitutional order» concerns the activity of the Antifascist committee, which was set up by local Russian politicians. According to KAPO, in 2005 the committee continued its «anti-Estonian activity» in the form of historical lectures in Maardu schools, which «justified the Soviet occupational regime». The «Spring of 1945» lecture given on 18 March was mentioned as an example. KAPO connects this action and similar ones with the influence of Russia. In the 2006 report collections of archive documents published in Russia and testifying to crimes committed by Nazis and local collaborationists in Estonia and other Baltic countries during the Second World War were called «anti-Estonian and anti-Baltic propagandistic editions».

On 4 March 2007 parliamentary elections took place in Estonia. The biggest success was achieved by the Reform Party, which gained 31 seats out of 101, with almost 28% of the votes. The Centre Party followed with 29 seats (26% of the votes). The other parties had much more modest results. In comparison with the elections in 2003 the Reform Party had the largest increase in parliamentary representation (twelve additional places). The Social Democrats received four additional places, and the Centre Party – one.

As well as the other issues, during the last election campaign the question of the Bronze Soldier was prominent. The leaders of the Reform Party were ranged against the monument and expressed their solidarity with ultra ethnic nationalists, apparently trying to attract the Estonians who voted for Pro Patria and Res Publica in the previous elections. In any case, in March 2007 these two nationalist parties, which have now united, lost 16 seats, most of which indisputably passed to the Reform Party.

As for the Russian citizens of Estonia, it was the Centre Party again that worked most actively with them during these elections. For example, they bought a lot of time on the First Baltic channel (the local ‘branch’ of the ORT channel based in Russia), including time in news programmes. In Russian-speaking advertisements the Centre Party opposed the demolition of the monument. Some well-known Russian public figures, for example, Konstantin Kosachev and Sergei Stepashin, appealed for votes for the Centre Party and its leader Edgar Savisaar.

In December 2006 a Russian-language newspaper «Pravo i Pravda» published an article «Ansip, Velliste and the new Nazis» illustrated with a collage of three profiles – a soldier wearing the SS-uniform, Andrus Ansip and Mart Laar, who were active opponents of the Bronze Soldier. The newspaper had long been an official media of the Centre Party, but in the course of the scandal the Centre Party claimed that they had had no direct relations with the newspaper for some time and that the party’s logo had been misused. The newspaper and its Internet site were shut down. It is worth noting that neither the ordinary police nor the Security Police have found elements of offence (incitement of ethnic hatred) in this article. At about the same time the Centre Party purchased another Russian-language newspaper with a considerable circulation.

This was the background that allowed the Centre Party to draw a large part of the ‘Russian’ electors who had previously voted for the ethnic parties, while the latter’s success was more modest. The Constitutional party (the former United People’s Party of Estonia) received only 1% of votes (in 2003-2%). Curiously enough the Centre Party’s support increased 0.7% compared to 2003. The marginal Russian Party of Estonia received about a thousand votes. Contrary to the

Centre Party, 'Russian' ethnic parties did not receive either significant financial or even symbolic support in the country or abroad.

According to the TNS Emor sociological service, at the beginning of April 2007 a total of 77% of ethnic Estonians (and only 21% of ethnic non-Estonians) supported the new government, again formed by Ansip. And only 5% of Estonians and 13% of non-Estonians thought that the Tõnismägi monument issue was one of the two priorities of the government (<http://www.emor.ee>).

The community expected provocations at the beginning of May 2007, mostly from Estonian right wing extremists. One of them, Jüri Liim, planned to hold on May 9 near the monument an officially registered history lesson over several hours. Earlier Jüri Liim had publicly threatened to blow up the monument and was brought to court (though the Supreme Court exonerated him on 21 May 2007 – case RK 3-1-1-7-07). In total, according to the mass media, there were seven registered meetings and demonstrations, most of them to be held near the Bronze Soldier on 8 and 9 May 2007 (*Delfi, 16 April 2007*).

But the night before 26 April 2007 a police operation was held there and the monument's defenders who were keeping watch on the Tõnismägi hill were expelled from the square. A large tent was erected over the monument and the graves. Legally it was explained as exhumation in accordance with the recently adopted Law on Military Graves Protection of the remains of the Soviet soldiers buried at the Tõnismägi.

By the evening of 26 April 2007 a large group of people, most of them Russian-speaking, gathered at Tõnismägi and expressed their discontent with the governmental actions. The crowd chanted «Shame!» and «Fascists!» The police ordered them to leave the Square but to no effect. Observers say that some protesters threw empty bottles in the direction of the police. Then a moment came when the law enforcers began breaking up the rally using special equipment and acting quite cruelly. Some participants of the meeting responded by throwing stones at the policemen. The protesters were pushed out of Tõnismägi to the neighbouring streets where vandalism and looting of stalls and shops soon began, while the law enforcers were surprisingly passive.

During the first night of disorder, the police staged mass arrests of people on the streets, including those who protested near the monument at Tõnismägi. The offenders involved in vandalism were also detained. These were not identical groups – according to some sources about a third of those detained during the first night were ethnic Estonians, though there were almost no Estonians near the monument (*Delfi, 27 April 2007*). Also, according to official data, there are ethnic Estonians among the people charged with looting and theft.

Small groups of Russian youths carried Russian flags during the street disorders and chanted «Russia!» There were also small fights between Russian and Estonian young people. Several young Estonian nationalists were present, some of them carrying Estonian flags, but there were very few of them. Most incidents occurred with the police.

Early on the morning on 27 April 2007 by decision of the Government of the Republic, the monument was removed from Tõnismägi and some days later it was installed at the city military cemetery. On the evening on 27 April protesters returned to Tõnismägi. The police changed their tactics and immediately started mass arrests near Tõnismägi hill and within a large radius around it. Disorders again started in Tallinn and in some other towns in the north-east

of Estonia, mostly with the Russian-speaking population. In the capital the police surrounded complete blocks of the city centre and detained those inside, in particular Russian-speaking people. Detentions continued on April 28.

Meanwhile there were no official prohibitions against visiting the centre of Tallinn where entertainment facilities worked as usual. But on April 27 recommendations «to stay home» were published in the mass media, sent to e-mail addresses and cellular phones.

The arrests were made with cruelty: the police used batons, rubber bullets and plastic handcuffs, people were put face down on the ground. The detainees were taken to 'filtration points'. According to the people who came to Estonian human rights organizations, the treatment of detainees in the facilities was bad: people were kept sitting for hours on concrete floors in an uncomfortable position with their hands tied behind, and the guards beat people, even without reason.

It is clear that most of the detainees had not been involved in any offence – according to Põhja district prosecutor's office there were some 700 'passers-by' (*Delfi*, 26 June 2007). Early in the morning they were released without any charges but also without apology. In total, according to Põhja police prefecture (covering Tallinn and the adjacent Harju County) the lists of the detainees kept in the 'filtration points' include more than 1,160 names. Among them there were 494 citizens of Estonia, 85 citizens of the Russian Federation and 308 stateless persons having the status of a long-term resident. According to the same source one person perished in the period of the disorders (Dmitry Ganin, citizen of the Russian Federation) and 156 were injured, 29 of them were policemen. During the April events the police registered 148 facilities that suffered from vandalism, of which two thirds occurred during the first night of disorder (*«Molodjezh Estonii»*, 16 May 2007).

According to the Prosecutor's Office of Estonia, 65 criminal cases, related to the April events, were opened by 18 May 2007. The State Prosecutor's Office investigated 3 of them, related to cyber attacks, organisation of mass disorders, coercive actions aimed at violent disruption of the independence and sovereignty of the Republic of Estonia, and the murder. Other investigations held by Põhja and Viru district prosecutor's offices, mostly dealt with group violation of public order, contempt of the representatives of authorities, organisation of mass disorders, insult to the memory of the perished, administrative infractions during mass disorders. More than 300 people were qualified as suspects in the course of the investigation. A total of 50 suspects were arrested, including four citizens of the Russian Federation and one citizen of Lithuania (*«Molodjezh Estonii»*, 25 May 2007).

The reaction of the investigators for dozens of applications concerning the police actions is an issue of utmost importance. From the beginning of the relocation of the monument the government surely expected mass discontent: thousands of policemen from the provinces were brought to the capital a few days before the relocation. But it seems that the organisers underestimated the scale of possible disorders and were not able to completely coordinate the actions of the law enforcers under extreme conditions. Nevertheless, both the Prime Minister and the Minister of the Interior were quick to praise the police actions immediately after the events. Minister of the Interior Jüri Pihl said in his interview to a local newspaper: «I know that the enemies of Estonia did not think that we have so many policemen and that they are so professional. They did not take into account that we have the force to solve the issue. That is why now they are looking for an opportunity to blame the police for abuse. But there was none.» (*«Vesti»*, 21 May 2007).

The International Helsinki Federation for Human Rights (IHF) called on the Estonian authorities «to investigate in a thorough and impartial manner allegations of police brutality during the recent wave of riots in the country and to ensure that any further riots are dealt with strictly in accordance with international standards» (*statement of 30 April 2007*). But not more than a dozen criminal cases were opened by June on the basis of applications against the police actions. Most of the victims received almost identical refusals where the police prefecture, the prosecutor's office and later the circuit court justified the law enforcers, referring to exceptional conditions of mass disruption. The selective approach of the investigating bodies is also noteworthy. For example, a criminal case was opened by an elderly citizen of Germany who was taken to the 'filtration point' and was beaten up by the guards. But similar applications by local inhabitants were rejected, though, unlike the application of the Germany citizen, these applications were supported with medical statements.

On the morning of 27 April 2007, after the first night of disturbances, Dmitry Linter and Maxim Reva were arrested on suspicion of organising mass disturbances. They were active members of the «Night Watch», mentioned above. The same morning, on his way to school, 18-year-old Mark Siryk, local representative of the «Nashi» Russian organization, who spent the «Bronze Night» at home, was arrested. Siryk was released on his own custody in mid June (Linter and Reva in November). Other members of the «Night Watch» were also under pressure, for example the organization was not able to rent premises for a meeting. The 'Russian-speaking' youth organization «SiiN» (literally «Here») where Siryk was an ordinary member, was almost immediately deprived of state financing presumably for connections to the Russian «Nashi» movement.

The «Night Watch» meeting «For tolerance and dialogue!» arranged for 22 April, was not allowed. The police considered this event dangerous for public peace (*Delfi, 21 April 2007*). After the «Bronze Night», from 30 April till 11 May 2007 all kinds of street events in Tallinn were prohibited by order of the police prefect. This left no space for the open expression of discontent with the actions of the authorities. A section of the Russian-speaking population at the end of April – beginning of May chose as a form of civil disobedience to drive slowly from 12.00 to 12.20 p.m. signalling with their horns. The police imposed fines up to 3,000 kroons (190 euros) on those who breached the traffic laws and publicly thanked those who informed the police about the breaches.

On 8 May 2007 Andrus Ansip, the Prime Minister, unexpectedly came to the military cemetery to lay a wreath. Thus Estonian authorities, for the first time ever, laid flowers at the feet of the Bronze Soldier. Diplomats of other countries also participated in the ceremony. But the Russian Ambassador ignored the invitation. He laid a wreath at the monument on May 9, when thousands of Russian-speaking inhabitants of the capital also brought flowers to the Bronze Soldier. Many people left flowers at the fence on the Tõnismägi Square – landscape works were carried out at the place where the monument had been.

Estonian authorities deny that the Russian-speaking minority in Estonia could have any serious problems that could provide grounds for spontaneous actions of discontent, triggered by the police operation at Tõnismägi. The authorities evidently try to explain the April events by Russian Federation influence (or even by orders from Moscow). Before the riots, a major Estonian

newspaper wrote about ‘suspicious meetings of extremists’ – leaders of «Night Watch» and local Russian-speaking politicians with Russian diplomats in a café and in a city park («*Postimees*», 25 April 2007). Urmas Paet, the Estonian Minister of Foreign Affairs, specially drew the attention of foreign journalists to these meetings. Nevertheless the Russian diplomats, whose photos were published in the newspaper, were not declared *persona non grata*.

Estonian authorities described the hacker attacks against websites of Estonian government offices at the beginning of May 2007 as the actions of the Russian authorities. This issue is still actively discussed at international level, though some Estonian and Western specialists have expressed their doubts on these allegations. Furthermore Rein Lang, the Minister of Justice, said in his interview to a provincial newspaper, that far greater disorders, aimed to overthrow the government, had been planned for 9 May. «I think that such a plan is clear for any reasonable person. If the Russian State Duma (parliament) delegation declares in the airport that they demand the resignation of the Estonian government and continues such statements in Estonia, I think there is nothing more to think about». The Minister of Justice could not point out the person who, according to the opinion of the organisers of the disturbances could become the Prime Minister. «If I had a paper signed by Putin, I would have given it to you long ago and asked you to publish it» («*Sakala*», 26 May 2007). A month later, Ants Laaneots, Estonian Commander-in-chief, publicly declared that the April disorders in Estonia had been «a large-scale, approved at high political level, thoroughly thought over and prepared special operation of the Russian Federation against Estonia» (*Delfi*, 20 June 2007).

In the course of the April events the Centre Party, that controlled local authorities not only in Tallinn but also in the ‘Russian-speaking’ towns of north-eastern Estonia, found itself in a complicated situation. The Tallinn authorities, as we mentioned above, tried to halt the monument relocation process, since this issue was important for the Russian-speaking voters, most of whom traditionally voted for the Centre Party. And the central government specifically adopted the Law on Military Graves Protection that allowed them to disregard the opinion of the Tallinn municipality about the monument relocation. The Tallinn authorities applied to court but to no effect. On the «Bronze Night» Edgar Savisaar, the party leader and the city mayor did not address ‘his voters’ as the right-wing parties demanded. Against a background of nationalistic hysteria after the April events, his position caused indignation among the Estonian section of the population. According to the results of a telephone poll that TNS Emor carried out at the beginning of May 2007, about 82% of ethnic Estonians approved of the Prime Minister’s actions after the removal of the Bronze Soldier while 84% of non-Estonians disapproved. The same results show that the personal rating of Savisaar among non-Estonians was 56% and his ‘anti-rating’ among Estonians was 81% (<http://www.emor.ee>).

In May and June 2007 the Estonian media published many articles by journalists and experts with different interpretations of the April events. The «Bronze Night» was the end of the era of Estonian political correctness. On one hand, authors ceased to abstain from the use of hate speech which had been very rarely used in Estonia before. On the other hand both experts and journalists began using previously taboo words such as ‘discrimination’ and ‘assimilation’. Specialists in ethnical politics had an opportunity to speak in mass media, but those who disapproved of the government actions were subjected to public criticism.

In June 2007 Saar Poll carried out a sociological poll regarding the April events. The questionnaire was compiled by Tartu scientists Marju Lauristin, Triin Vihalemm, Kristina Kallas and Valeria Jakobson, and Andrus Saar prepared the materials for publication. The representative sampling included 996 ethnic Estonians and 491 non-Estonians. Below we quote some of the results published on the web-site of the Office of the Minister for Population Affairs that ordered the poll (<http://www.rahvastikuminiister.ee>).

Let us begin with the problem of the Bronze Soldier relocation. While 51% of ethnic Estonians, participating in the poll, thought this decision of the authorities was «absolutely right» and 28% – «fairly right», only 4 and 7% of non-Estonians gave these answers respectively. Among the representatives of the minorities, 40% of respondents evaluating the correctness of this decision chose the variant «no, another solution should have been found» and 36% – «absolutely not, I completely oppose it». Evaluations of government activity to resolve the April crisis were also completely opposed. Most ethnic Estonians qualified it as «very successful» (23%) and «fairly successful» (43%), while most non-Estonians considered it «totally unsuccessful» (56%) and «fairly unsuccessful» (28%).

Support of the government institutions and professional groups involved in the crisis was also polarised. According to the results of the poll, 73% of Estonians *completely* trust the President, while 55% of non-Estonians do not trust him *absolutely*. Corresponding results concerning the government are 36 and 58%, and concerning the police – 60 and 51%. It is worth mentioning that the level of trust of the police was relatively high among ethnic non-Estonians before the April events. Very many people among Estonians and non-Estonians do not *absolutely* trust politicians of Estonia, the European Union, the US and Russia.

Estonians and non-Estonians also have different opinions about the reasons for the riots. The following explanations, offered by the mass media, were the most popular (more than 70%) among the representatives of the ethnic majority: activity of 'inciters of hatred' and provocators; Russia's will to use the Bronze Soldier to destabilise the (political) situation in Estonia and demonstrate its influence; different sources of information (mass media) for ethnic Estonians and Russians. Correspondingly, only 31, 13 and 36% of non-Estonians chose these answers.

In addition, a significant section of ethnic *Estonians* supported the following explanations:

- Estonians and Russians have different experiences and recollections relating to the war (Estonians – 65%; non-Estonians – 38%);
- Estonians and Russians differently interpret the fact of Estonia joining the USSR (64 and 34% respectively);
- History and Civic Studies are taught differently in schools with Russian and Estonian languages of instruction (60 and 28%);
- Estonians and Russians differently evaluate the results of Estonian membership in the USSR (57 and 29%);
- Estonians and Russians have different attitudes towards the Soviet system (57 and 31%).

Most ethnic *non-Estonians* are inclined to think that the reasons for the disorders were the following:

- The Government decision to remove the monument and move the remains of soldiers (non-Estonians – 70%; Estonians – 55%);
- The manner, timing and procedure for the monument relocation (70 and 32% respectively);
- The police actions during the disorders (63 and 18%);

- Contradictory and incomplete information about the intentions and the steps to relocate the Bronze Soldier (59 and 44%);
- Politicians' desire to attract votes by using the Bronze Soldier relocation issue (58 and 20%);
- Lack of communications between the government and the Russian-speaking community (56 and 44%);
- Protest against the Estonian state policy towards non-Estonians (51 and 24%).

The following explanations had comparable levels of support among ethnic Estonians and non-Estonians alike:

- Estonians and Russians differently interpret the notion of fascism (Estonians – 60%, non-Estonians – 50%);
- Estonians and Russians differently interpret the meetings of Russian-speaking people near the Bronze Soldier (44 and 38% respectively);
- Conflict of geopolitical interests of large international players (44 and 38% respectively).

There also were some answers where the difference between the votes of ethnic Estonians and non-Estonians showed up to six times difference. Thus 42% of Estonians agreed that the disorders were caused by «activities of Russian special services» (compare to 7% of non-Estonians); 13% of Estonians and 71% of non-Estonians disagreed with this statement.

Analysing the answers to the question «How have ethnic relations changed after the April events?» the social scientists found an interesting phenomenon: the respondents felt more negative changes «in Estonia in general» (in mass media, in politics, in the public consciousness) than within the group of their acquaintances or in personally visited public places. Some 44% of Estonians and 56% of non-Estonians said that relations have worsened (considerable or partially) «in Estonia in general». While 47% of Estonians are sure that «now when the monument is at the new location» the crisis has been resolved (completely or partially), only 22% of minorities think so (36 and 58% respectively disagree with this statement).

The respondents were also asked whether the crisis would have long-term consequences for Estonian society. The following issues, caused «to a very significant extent» by the April crisis, according to ethnic Estonians and non-Estonians, are worth mentioning: Russian-speaking people do not trust the authorities and feel deeply insulted by the government (Estonians – 25%, non-Estonians – 63%); Russia has increased pressure on Estonia (34 and 17% respectively); inter-ethnic relations are strained, and there is a conflict between Russians and Estonians (22 and 26%); negative consequences for the Estonian economy (15 and 39%).

Below we list the issues that many ethnic non-Estonian respondents (contrary to Estonians) feel «to a very significant extent» caused by the April crisis:

- negative influence on the image of Estonia (40%);
- repression of freedom of opinion, restriction of democracy (46%);
- increased police intervention in all spheres of activity, including expression of opinions by residents of Estonia (30%);
- political choices for people are reduced to their attitude to the Bronze Soldier (30%).

It is interesting to compare the preferences of ethnic Estonians and non-Estonians to whom the social scientists offered pairs of statements about the integration policy. While 62% of non-Estonians agree that «the crisis made public attitudes towards integration more negative», 45% of Estonians preferred the option: «the crisis created in Estonia a greater public interest in

integration». Besides, while 59% of non-Estonians agreed that «the crisis proved that the current integration policy is completely inefficient and there is no need to spend the money», nevertheless 40% of Estonians and non-Estonians agreed that the crisis proved the necessity of an integration policy, but «it should be more substantial».

In any event, a quarter of ethnic Estonians and a half of non-Estonians are convinced that «the crisis has divided the Estonian and Russian-speaking people into two clearly opposing camps». But 41% of Estonians and 33% of non-Estonians preferred another variant of the answer: «the crisis showed that there is a certain community of Estonians and non-Estonians who have mutual understanding».

The question about the influence of mass media on the crisis was of a special interest for the experts. In general, most ethnic Estonians positively evaluated the activity of the Estonian-language newspapers, radio and TV as objective and diversified. The Russian-speaking respondents were sceptical and more than a half of them evaluated highly only Russian Federation TV channels and local Russian-language newspapers. In general both Estonians and non-Estonians gave moderate negative evaluation to the mass media in their non-native language. Nevertheless 35% of Estonians and only 14% of non-Estonians agreed with the opinion of Kristiina Ojuland, vice-speaker of the Estonian parliament, that translation of the Russian satellite TV in Estonia might require restriction.

Vadim Poleshchuk

The text is based on the bulletins of the Network for Ethnic Monitoring and Early Warning (<http://www.eawarn.ru>).

APRIL RIOTS IN TALLINN: LEGAL ASPECTS

Part I. LEGAL FRAMEWORK

In April 2007 mass protests took place in the capital of Estonia resulting in street disorders. The actions related to the government decision to relocate the monument erected on the graves of the Soviet soldiers who perished in 1944 in the battle against the German Nazis from Tõnismägi Square in Tallinn. The decision to exhume the remains and relocate the monument was made contrary to the opinion of the majority of the capital inhabitants and of the City Council of Tallinn. During 26-29 April 2007 in the evening and in the night hundreds of people were detained in Tallinn, most of them belonging to the Russian-speaking minority. According to official information, on 26-29 April more than a thousand people passed through specially arranged ‘filtration points’ (temporary detention facilities). Most of the detainees were released early in the morning without incurring a detention report or any charges being laid against them.

When the disorders were over, the high officials (Prime Minister, Minister of Justice, and Minister of the Interior) publicly said that in the course of suppressing the riots there had not been and there could not be any breach of law by the police. These statements were made despite the fact that the mass media had already informed (and published photo and video materials) about excess brutality on the part of the police.

With the aid of the Legal Information Centre for Human Rights, about 50 people – victims of the police abuse – filed applications with the prosecutor’s office and/or the Chancellor of Justice. The main points of the claims are the following (see details in Part 2):

- In breaking up the unauthorised rally on the evening of 26 April at the Tõnismägi Square, the police used special equipment against non-aggressive people. People who were near Tõnismägi on the evening of 27 April, including ordinary observers, also suffered from brutal police actions.
- On the nights of 28-29 April the police detained even passers-by in the central part of the city. Furthermore the police did not inform the people of the cause of their detention, or offered clearly inappropriate explanations. Many of the detainees claim that they were not allowed to inform their relatives about their detention. None of the police officers informed relatives either.
- Most detainees said that policemen beat people who were already helpless. A number of witnesses had to lie on the cold ground (and some of them for quite a long time) in the April night. There is evidence of rough treatment of the detainees during transportation and in the detention facilities.
- Most of the evidence concerns the detention conditions in the so-called D-terminal, i.e. in a warehouse near the port of Tallinn. Almost all the witnesses say that the detainees were made to squat for a long time with their hands tied behind their backs, which caused physical pain. There is much evidence that the security agents beat the detainees, even without reason. Some witnesses say that the detainees did not receive water and not everybody was allowed to visit a WC. Medical aid was rendered only after delays.

1. Estonian legislation

General principles relating to this matter are set forth in the Estonian Constitution. Article 18 of the basic law prohibits torture, cruel or degrading treatment or punishment. Article 20 prohibits unreasonable deprivation of liberty and violation of the right for security of person. Article 21 stipulates the right to receive information about the reason for deprivation of liberty and the rights of the detainee, and the right to notify those closest to him or her about the deprivation of liberty (although the use of this right can be limited). Article 22 establishes the principle of the presumption of innocence.

In Estonia only the Law on Police contains special norms regulating police action. According to part 6 of Article 14 of the Law on Police, the police have the right to use special equipment, cut-and-thrust and gas weapons for the performance of police functions in case of mass riots or group violations of public order (p. 4). The police also have the right to use special equipment and weapons (p. 6):

- for detaining offenders
- for taking offenders to a police office or other premises
- for protecting detained persons
- against persons detained or taken into custody if such persons do not obey, or offer resistance against police officers or other persons who perform their public duty in the protection of public order or fight against crime
- if there is sufficient reason to believe that the detainees might escape, harm other persons, surrounding people or themselves.

According to part 8 of Article 14 a police officer has the right to use individual protection equipment and physical force to perform police functions or to ensure his or her own safety.

Another important principle is included in part 7 Article 14 of the Law on Police: the police shall consider the nature of each offence, offender and situation before using special equipment, cut-and-thrust or gas weapons against an offender. The police shall avoid causing more harm to the health of the persons than is absolutely necessary in each particular case.

According to parts 1-3 of Article 217 of the Code of Criminal Procedure (CCP), a person may be deprived of liberty for up to forty-eight hours if he or she is apprehended in the act of committing a criminal offence or immediately thereafter; if an eyewitness to a criminal offence or a victim indicates such person as the person who committed the criminal offence; or if the evidentiary traces of a criminal offence indicate that he or she is the person who committed the criminal offence. A person may also be detained if he or she attempts to escape; he or she has not been identified; he or she may continue to commit criminal offences; he or she may abscond from criminal proceedings or impede the criminal proceedings in any other manner. A report shall be prepared on a detention.

Part 10 of Article 217 CCP guarantees to the person detained as a suspect an opportunity to notify at least one person close to him or her at his or her choice of his or her detention through a body conducting proceedings. If the notification prejudices a criminal proceeding, the opportunity to notify may be refused with the permission of the Prosecutor's Office.

Breaches by officials of the requirements stipulated in the Law on Police and CCP may be subject to application of the following Articles of the Penal Code:

- Article 118. Causing serious damage to health
- Article 121. Physical abuse
- Article 122. Torture
- Article 136. Unlawful deprivation of liberty
- Article 291. Abuse of authority
- Article 324. Unlawful treatment of prisoners or persons in detention or custody

Participants of the mass riots may be accused on the basis of the following stipulations of the Penal Code:

- Article 149. Debasement of memory of the deceased
- Article 231. Activities aimed at violent disruption of the independence and sovereignty of the Republic of Estonia
- Article 233. Non-violent acts committed by aliens against independence and sovereignty of the Republic of Estonia
- Article 238. Organising mass disorder
- Article 239. Commission of offences during mass disorder
- Article 262. Breaches of public order
- Article 263. Aggravated breaches of public order
- Article 275. Defamation or insult of the representatives of state authority or other persons protecting public order
- Article 276. Disregard of lawful orders given by representatives of state authority.

2. International legislation

Several international documents render valuable recommendations to national governments in respect of the norms and standards of behaviour in case of mass disorders.

International Covenant on Civil and Political Rights. European Convention for the Protection of Human Rights. Article 7 of the Covenant and Article 3 of the Convention say that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Part 2 of Article 2 of the Convention says that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. The Convention specifies that the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (part 1 of Article 1).

Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979. Article 3 of the Code says that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

According to Article 5 no law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment.

Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988. The Body in particular guarantees that all persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person (principle 1); stipulates that no circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment (principle 6); requires that anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him (principle 10); sets the requirements of the records drawn during the detention (principle 12); stipulates that a proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary (principle 24).

Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955. Article 92 of the Rules clearly says that «an untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution».

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990. Article 4 of the Basic Principles stipulates that «law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result».

3. Standard explanations given by the authorities for refusing to initiate criminal cases against police officers

In accordance with the Estonian legislation: a refusal by a police prefect's office to commence criminal proceedings can be contested in a regional (circuit) Prosecutor's Office; a refusal by regional Prosecutor's Office can be contested in the National Prosecutor's Office; a refusal by the latter can be contested only by filing a claim with a circuit court through an advocate. The ruling of the circuit court is final and not subject to appeal (parts 1 and 2 of Article 207, part 1 of Article 208 and p. 8 Article 385 CCP). We should mention that it was difficult for the victims to engage lawyers, because many lawyers did not want to be involved, as they feared to worsen their relations with the authorities.

The police and the prosecutor's office (and then the circuit courts) stipulated standard reasons for refusal to commence criminal proceedings:

- Taking into account the events in the Republic of Estonia on 27 April 2007 the police had to ensure internal security of the state and public order.

- The police had the right to use force and special equipment because they dealt with large numbers of people and had to ensure public order during the period of disruption. Variant: the applicant did not obey a policemen's legal order to leave the place of an illegal meeting and they had to use force/special equipment against him or her.
- The situation in the temporary detention facility was very complicated. The policemen had to use force/special equipment in order to keep the situation under control.
- The applicant could have been injured by his or her 'accomplices'/a third party, in the course of the street disorder. Variant: the applicant has not proved/has not provided satisfactory evidence of bodily injury.

Therefore the refusals to commence criminal proceedings were generally based on one of the following assumptions:

- the applicant was an offender and force/special equipment were legally used
- the applicant was acting *mala fide* when he/she complained of the personal injury
- the use of the force by the police always had good reasons
- any actions committed by the police can be justified by referring to the special conditions in the country at the end of April 2007.

Examples of legal actions that were not undertaken in respect of the applicants:

1. interrogate the applicant
2. file and view video tapes (official/mass media) recorded during the police operation/at the place of the applicant's detention
3. request and file detention-related materials
4. interrogate the medical staff who were working at the detention facilities
5. interrogate the ambulance staff, who hospitalised the applicant/interrogate the attending physician
6. arrange for forensic examinations
7. identify and interrogate the witnesses of arrests/detentions etc.

We can reasonably declare that the individual characteristics of each application were not analysed.

After the Circuit Courts by its rulings also refused to satisfy claims concerning refusal to commence criminal proceedings, all avenues of internal legal defence have been exhausted. Now the applicants may look for justice only in the European Court of Human Rights.

Part II. OVERVIEW OF APPLICATIONS AGAINST THE ACTIONS OF LAW ENFORCEMENT OFFICIALS

From 30 April 2007, the Legal Information Centre for Human Rights started collecting through a telephone ‘hot line’, reports from people, who considered themselves victims of police actions during the process of breaking up the meeting in Tõnismägi on 26 April 2007, and also in the process of putting down the disorders, triggered thereafter. Altogether, there were more than 50 appeals recorded, the majority of which were, with the help of the Centre, executed and delivered as official applications to the Chancellor of Justice and/or Public Prosecutor’s Office.

This overview has been composed with reference to 35 applications, the majority of which were made out for the Chancellor of Justice or the Public Prosecutor’s Office. The copies of all those applications, signed by the complainants, and the contact details contained therein are available in the archives of the Centre. We have selected only the applications concerning the events in the city of Tallinn on 26-29 April 2007. Please remember that the statements contained in the applications are the statements of private individuals, not confirmed or contested in the course of court proceedings.

Every application consisted of a number of allegations, concerning personally the applicant or the events, which he/she witnessed in their personal presence or observed directly (the allegations of the first kind were given preference). The text of every application was broken down into ‘topics’ concerning a given aspect of the work of the law enforcement bodies in an emergency situation. Insofar as possible, the text of the applications was not altered (while gross grammatical errors and orthography of place names were corrected). Nor did we change the terminology used by authors of the applications (‘special squad’, etc.). Utterances of an emotional character were excluded, as far as possible.

The Legal Information Centre for Human Rights admits that the applications, which serve as basis of this overview, cannot provide a full picture of what was going on for the following reasons:

- The report does not present the visions and views of law enforcement bodies. We have to note that the law enforcement agencies refused to commence criminal cases in respect of the facts mentioned in the applications, which prevented analysis thereof by impartial investigation.
- The overly excessive tendency to give a political hue to the issue has brought along the situation that among the applicants, contacting our organisation, there has not been a single Estonian-speaker. It is only by means of mass communications that reports of similar negative experiences with victims of Estonian ethnic origin, have emerged.
- Only the applications of those persons who consider themselves absolutely innocent of any transgressions whatsoever of the law, are used to form the basis of this report. In addition, a criminal or administrative procedure has been initiated with respect to just a few people from among three dozen applicants. This also contributes to the exceedingly ‘acrimonious accusatory’ attitude of the authors of the applications.

1. Breaking up of the meeting in Tõnismägi at the night of 26 April 2007

Meeting in the night of 26 April 2007 in Tõnismägi was not sanctioned. Evidently, the people having gathered there did not react to exhortations of the police to break up and go away. Nevertheless a number of witnesses allege that the police started using special devices with regard to persons, who did not conduct themselves aggressively.

Eyewitness (a lady 68 years of age): «I stood near the food store, when police all of a sudden attacked the peacefully standing people and began using force and special devices – tear gas, rubber slugs etc... Because there was a throng of people milling around and about, I could not leave the scene of events. I got wounded in my right hand in the area of wrist, a wound on my cheek, in head and in my left shoulder as a result of multiple strikes with truncheon».

Eyewitness (a lady 36 years of age): «After the exhortations of the police to the crowd to go away had failed to have a due effect, police put into use truncheons, tear gas and smoke charges of explosives. No windowpanes had been broken as yet, when the police started cudgelling us with truncheons. We broke into a run, and from behind, blows with truncheons were falling thick and fast on us. They were targeted at absolutely everyone: women, children, the young and the elderly alike».

Eyewitness (56 years of age): «I was near the monument in Tõnismägi and observed the works of reburial. Then I backed away to Endla Street and stood near the streetlights. Not far from me were policemen, and behind them a constable with portable radio transmitter. He received an order, he barked out something and the policemen reached after their truncheons. All started at a moment's notice, they set to banging everybody around, indiscriminately and haphazardly. I got a bang on my head with truncheon. My head was badly hurt, I fell down, and some people lifted me up and carried aside. We called the urgent aid, but the medical personnel refused to drive to the square Tõnismägi. After half an hour I was attended to, medically. The wounds on my head were sutured. I have now a scar of 10 cm on my head».

Eyewitness (33 years of age): «On 26 April 2007, when on my way home from work, in Tõnismägi Street I found myself in a crowd... An official of the special squad, armed with truncheon, run up to me and goaded me by gesture to move on after the crowd. Hardly could I make a few steps when I was kicked to the ground, receiving with blows on my back and head with truncheons».

2. Dispersal of people, gathering at Tõnismägi on 27 April 2007

A number of witnesses allege that on 27 April 2007 the police conducted themselves aggressively with people, who were situated not far from Tõnismägi, and that quite a few onlookers suffered injuries.

Eyewitness (29 years of age): «At about 20:00 I came to Kaarli Blvd in the capacity of reporter, carrying a camera and having on me the reporter's card, and I stayed there until approximately 22:00. I witnessed how policemen drove the gathering people along Kaarli Blvd and along the public road left to it (when facing the church) to the direction of the

underground crossing. Entry to the underground crossing located at the end of Kaarli Blvd had been blocked well in advance. The gathering people filed dragged along the whole Kaarli Blvd. According to my observations, the most energetic and aggressively tuned people were positioned «in the front lines», i.e. closer to the St. Charles Church and the Tõnismägi hillock, while nearer to the Independence Square were stationed onlookers and idlers, who did not commit any infringements of law. Even more so, they had no opportunity to commit them (it was too far to policemen from there). Unexpectedly (I reckon it was at about 21:45) policemen with special gear (helmets and transparent shields, on which they banged with truncheons, seemingly for frightening the people) rushed at the gathered people, moving in the direction from Tõnismägi towards Independence Square on the public road – by that time the road was closed. The gathered people, in their turn run towards Independence Square and clashed with the file of policemen (hereinafter ‘special squad’, although I am not sure that it was the special squad) in black clothing – unlike the policemen, advancing from the side of Tõnismägi, who were wearing luminous yellow vests. Special squad assumed the position in a file so as to obstruct the path of running people, blocking their way to Independence Square. Because of the dark uniform they were hard to notice. I saw that it was the onlookers and gapers that were the first to run up to special squad. Special squad handled them roughly, without further ado: the first arrivals were locked in the «encirclement», they were pushed back, they were bawled at in Russian «Back!» and «Down!» which could be interpreted as the order to drop on the ground or asphalt. If people resisted, i.e. did not drop on the ground, they were, without warning beaten with truncheons (I would like to emphasise: there were no signs of aggression manifested by those people), they were kicked to the ground, their hands were bound behind their back and they were again bludgeoned with truncheons. When people chose to be submissive, the same occurred: their hands were bound and they were sometimes whacked, evidently just in case, to scare them... Part of them, seeing what was going on attempted to break through the file of the special squad. Some succeeded in that. I will repeat: the special squad made short work of especially those who were in the «back lines», i.e. stood idle and followed the developments. From time to time the officials of special squad went for one person in a group of two-three. Officials of special squad seemed to be well aware of what they were doing».

Eyewitness (31 years of age): «I was situated near the Clock of Freedom in Independence Square and took photographs and shot a video film. At 22:28 an official of the sting squad, having run up to me from behind hit me on the supporting leg with truncheon. I was sober, I had not violated the law and order, among people surrounding me nobody was aggressive, nor were there any people who could conceivably assumed to be roughnecks and looters».

Eyewitness (43 years of age): «At approximately 21:15 I took a seat on a bench in Kaarli Blvd, in order to rest a bit. There was nobody on the bench beside me. Two officials of police, without carrying badges of authority accosted me. They demanded, in a gruff manner, that I should leave that place. When I wondered to what directions I should make my way, policemen knocked me down and beat me up during 2-3 minutes».

3. Apprehensions on 27/28 April: principles of apprehension

With reference to numerous eyewitnesses a conclusion can be drawn, that in the evening 27 April and night 28 April 2007 police went to the extremes and also laid hands even on random passers-by, who perchance occurred to be in the central part of town. Furthermore, police did not notify people about the motives of their detention, or ventured an implausible explanation, provoking disbelief. Quite a few unsuspecting people were arrested, because unlike the hardened lawbreakers they did not make an attempt to give the slip, catching sight of police. There was no official injunction issued banning visits to the Old Town. Bars and restaurants were working in full swing there.

Eyewitness (47 years of age): «At 23:30, when my wife and me strolled in the centre of Tallinn along Viru Street, police cordoned off the whole quarter and grabbed everybody who happened to be in their way. Those who were busy wrecking the showcases of the shops at that time, used blind alleys and everything turned out happily for them. Those remaining behind, assuming that running away would implicate them and give motive for arrest, were knocked off their feet with kicks on shins, they were sent toppling on ground with faces down and they were manacled with plastic handcuffs. Beside me, there occurred to be an Estonian-speaker, who started to explain something to the police, and he was let go».

Eyewitness (30 years of age): About midnight «my brother and me crossed Pärnu Road (it was blocked by police) and turned up in Georg Ots Street, planning to bypass the area encircled by police. We heard behind us shouts and stampede. I noticed that several officials of police were running to my brother. We made no attempts to clear off. I thought it could be a misunderstanding, but coming up to my brother the first of the policemen clobbered him on the head with truncheon, and my brother fell down. At the same moment I, too was thumped on my head... Upon my wondering question «For what did you beat us up?» the policeman who had unmercifully slammed my brother said that there were traces of blood on our hands implicating us as having smashed the showcases. First I did not understand what he meant, but when were seated in a bus, I felt blood trickling down my neck. We soiled our hands when lying on the sidewalk, keeping them behind our heads. Until that time, our hands were clean».

Eyewitness (43 years of age): «When I was escorted to identification, upon my question about the reason why we were taken to custody a policeman answered that I myself was to blame for that».

Eyewitness (21 years of age): «Having seen my girl-friend home I walked to my place on foot. At 2 o'clock in the morning I found myself on the corner of Viru Street and Pärnu Road. I was going alone, not disturbing public order. All of a sudden, the policemen were yelling and running. I could not possibly relate that uproar to me, I was just heading home. Noticing that there were two policemen, in their haste running towards me, I stopped, raised my hands and obeying the order, eased myself on the ground, injuring my chin in the process of contact with asphalt, because the police banged me on the back». (*Events in the night against 27 April*).

Eyewitness (14 years of age): «Approximately at 19:30 I was going home in the region of Tuukri Street. In front of me there were three male youths walking (approximately 15-16 years of age). A bus was moving to our direction... A group of more than 15 policemen jumped out it, wrung those blokes' hands putting handcuffs on them, pushed them on ground. This scared me mightily and I ran to the bus stop in Narva Road. A policeman caught me up, grabbed me by the scruff of my neck and dragged me to the place where the guys were lying. I was kicked off my feet, a policemen pressed hard on my chest with his knee, and my hands were bound with a length of plastic straps».

Eyewitness (32 years of age): «Approximately between 23:00 and 24:00 I was walking through the Town Hall Square to the side of Viru Street (I was going home). I was together with three of my acquaintances, my co-students from the university. We all were absolutely sober, we were not aggressive, and we did not shout anything. In the Town Hall Square, there were few people. Heading towards us was a group of policemen (15-20 people). Because we had not participated in any meetings and had therefore nothing fear, we just continued ahead. All of a sudden one of the policemen barked something and they descended on us... When I asked «Why have we been detained?» I heard a gruff answer: «You should better sit home!»... We were said that we would be taken to a «filtration camp»».

Eyewitness (32 years of age): In D-terminal «I attempted to find out for what I had been detained. In reply I was only shouted at».

Eyewitness (30 years of age): «When I was released I asked what I had done wrong. I was answered that I had occurred in the wrong place at the wrong time».

Eyewitness (33 years of age): «On 27 April my new-born child was 2 weeks. I work for a transportation company. At that time my shift ended at 22:30... We wanted to buy flowers at the flower stand, to congratulate my wife. We did not participate in the manifestation around Bronze Soldier, and we did not even nurture such thoughts. At about 00:20 we standing near the club «Venus» talking idly. Quite unexpectedly some policemen appeared round us. Two of them fell upon me and wrung my hands behind my back, without explanations, bound them with builder's clamp and flung me on asphalt, face down».

Eyewitnesses (both 30 years of age): «At about 23:45 we came out of restaurant «Bierhaus» and went in the direction of Independence Square (we had a car parked nearby «Kristiine Centre»). At the end of Harju Street we met with police covering force. Passing by the policemen we asked them where we could go to the direction of Kristiine. Nobody cared to answer and we went down along Müürivahe Street. We heard shouts behind us, and stampede. I noticed that several police officers were running in our direction. We did not make an attempt to dash along. We thought it was misunderstanding. Having caught up with us, policemen straight off started hitting away at us with truncheons, mostly on head and back. We were pushed down on the ground. We were lying on sidewalk face down, holding hands at the back of head. We were told to remove the hands behind our back, after which they were bound. We asked what we were being mauled for, while we had not done anything unlawful and did not even put up resistance».

4. Apprehensions 28/29 April: principles of apprehension

On the basis of available evidence there are all grounds to assert that in the evening 28 April and in the night against 29 April 2007 police detained «for preventive purposes» Russian-speaking persons who happened to be in Old Town. There was no official ban on visiting Old Town (although mass media had, by that time made vocal respective appeals by some officials). The majority of bars and restaurants continued normal operations.

Eyewitness (36 years of age): «I was accosted by a policeman, who wanted to see my documents. I handed him my ID card. He asked about my citizenship. «Does it make a difference?» – I answered. «You will see in no time», – he let fall an answer and there and then my hands were wrapped in a plastic strip... In the small hours of the night in the cell I was asked why I had been seized. I was answered that I would better not leave home until May 9».

Eyewitness (22 years of age): «When we were not far from «Hesburger» in Old Town we saw policemen. They came up to us and asked to see our documents. We produced the documents. Thereafter they turned us with backs to them and body-searched us. Failing to find anything illegal, they started binding our hands with clamps. Filled with indignation by their conduct I said that they had no right, that there were no reasons to detain us, that it was unlawful. To which one of the policeman reacted by saying in Estonian-accent Russian: «Shut up!»... We were kept in the cell from 23:00 until 08:00 in the morning. When we were released, our things were returned to us, while we had to sign a certificate reading: «I have received my personal effects and do not have any claims»».

5. Apprehensions on 27/28 April: methods of apprehension

Majority of witnesses among persons who had been detained point out that policemen beat persons, who already were incapacitated and in a helpless state. A number of witnesses too were forced to lie on the ground in the night in April (sometimes quite long). Police used, in the function of handcuffs, the plastic clamps (called differently by witnesses).

Eyewitness (a lady 50 years of age): «I met with my daughter [23] in the centre of town. Approximately at 21:30 we crossed the Independence Square. On the sidewalk behind the underground crossway, we were stopped by people in black uniform. The squad of people in black uniform blocked our way and sprayed gas at us, without warning. Then a policeman threw us down and clasped our hands behind our back with a plastic strip. My daughter found herself face down on asphalt... I attempted to turn myself on my side, so that I could spit dirt out of my mouth. A policeman came running to me and started kicking me with feet, ordering me to lie still. It was then, evidently that a finger of my right hand was broken. We continued lying down on the ground 15-20 minutes».

Eyewitness (a lady 18 years of age): «... We surrendered at discretion of the police, we lied down of the ground, but we nevertheless got a beating, while our hands were bound. I was lying on asphalt over 30 minutes, after that another half-an-hour on the lawn of Security Police. All the time my hands were tied» (*events in the night against 27 April*).

Eyewitness (21 years of age): «We were lying on the ground faces down for over half an hour. One of the policemen did not like the way I was lying down. He kicked me twice with his boot at my leg. The blow left abrasions and bruises. Our attempts to ask or say something triggered an avalanche of unprintable swearing, debasing human dignity, and brutal kicks».

Eyewitness (18 years of age): «Our hands were tied with builder's band. The band cut into my flesh, my hands grew numb. In the process of tying up, I got a severe bang with truncheon on my back... We were lying down on chilly ground for ten minutes. Then the police started getting us up and pushing down the hillock. Down, I was laid on asphalt for another 30 minutes. Then a bus drove up and sped 20 people away. We were still lying down. Then a police car arrived and gathered up 6 more people including me».

Eyewitness (52 years of age): «In the period between 17:00 and 18:00 I was at Kaarli Blvd, because I was going to the box-offices of the Russian Drama Theatre. Both sides of the boulevard were lined with policemen. On the sidewalk there were a lot of people. The situation was calm. I made a step on the driveway to ask how I should better cross the boulevard. On that moment a policeman rushed to me, to be followed by two more. They wrung my hands behind my back and kicked me down on the lawn. Thereafter they hit me three times, when I was already sprawling down, with truncheon and foot. The blows showered on me from the right side, hitting for-arm, hip and foot. I lost consciousness and came to senses again when the police car drove up».

Mother of a witness aged 14: «Approximately at 18:00 my son was returning home from school. He got to bus no 40. In Independence Square, a traffic jam had formed and the movement of buses had stalled. He decided to leave the bus and go on foot through the park, come out near hotel «Tallinn», and take the bus no. 40 or no. 59. However, near the café «Moscow» a smoke charge exploded and people broke into a run. A policeman caught him, ordered to sit on asphalt and wait for the police car. When the car drove up, his arms were wrung behind his back, he was hit with the fist at shoulder and he was dragged to the police car. This frightened him out of his wits and he started sobbing. Because there was not sufficient space in the car, his hands were tied with plastic builder's clamp and he was ordered to wait for the next car». *(Later, an elderly lady rescued the child from the hands of police; there is a photo and video evidence).*

Eyewitness (32 of age): «Approximately at 20:00 we decided to travel to city and relax in a bar in Old Town. We went on trolleybus no. 5 until «Lille» stop and then travelled until stop «Hotel Tallinn». After 21.00 we went from that stop up along Falgi Street, in order to get to the stairs, leading to Independence Square. Somewhere in the middle of Falgi Street we saw a crowd of teenagers running to our direction, followed by police in black uniform wearing masks and armoured vests. We withdrew from the path of the crowd to the side of the road. Policemen and the bigger part of the people ran past us. We wanted to continue our leisurely stroll and were already on our way when all of a sudden I received a strong blow at my legs. Caught unawares, I dropped to my knees. I attempted to rise, but got two more blows at legs. Several policemen fell upon me; they tied my hands behind my back and started flogging me with metal truncheons. I was hit on head, arms and stomach».

Eyewitness (38 years of age): «At about 23:00 I was in Tallinn in Independence Square and peacefully conversed with acquaintances of mine. At that time, bangs started to sound and all the people situated there ran in different directions. A policeman ran up to me and started cudgelling me, without an apparent cause, on my back with a rubber truncheon... Dazed

with pain from blows I attempted to run. I did not understand what was going on and why policemen beat me. I stumbled and fell, feeling that someone fell on me and started beating me with something methodically, on my back and head (later they turned out to have been policemen). When I came to, I felt being carried somewhere, while my hands were clasped up on my back».

Eyewitness (29 years of age): «Approximately at 21:30 I was near the tennis courts not far from hillock Harju. Unexpectedly policemen fell on me. Without any explanations, they beat me up, wrung my arms to my back, laid me on asphalt and tied my hands at my back. Three people beat me on my head with truncheons and feet. I protected my head with my hand and it got broken».

Eyewitness (33 years of age): «After about five minutes I was dragged nearer to the bus stop, where already 10-15 people were lying down. All that time we were forced to gaze at asphalt. A guy next to me was given a kick with foot at ribs by a policeman just because he raised his head and looked at side».

Eyewitness (18 years of age): «We saw that across the road, near the tower Kiek-in-die-Kök there were about 30 policemen standing. We approached them and asked, how we should go to the theatre «Estonia», because I was being late for the last jitney (fixed-route taxi). They advised us to go down to Independence Square. We had hardly gone 10 metres off them when we saw that policemen carrying guns were running towards us from the side of Independence Square, firing away with rubber bullets. I raised my hand crying out «Don't shoot!» In the crowd near me were children and women. Then the police ran up to us and started yelling at us in Estonian ordering us to lie down. We did not understand what it was they wanted of us and they started beating us up. Then one policeman made a right guess and said in Russian: «Lie down! With face down!»»

6. Apprehensions on 26-28 April: transportation

There is evidence about rough handling of those apprehended during transportation.

Eyewitness (22 years of age): «Then a civilian microbus of red colour drove up, we were thrown on floor of the car».

Eyewitness (a lady 50 years of age): «Then a bus drove up and we were ordered to stand and climb on. The bus was crowded with people to the brimming point. We queried why we had been seized. There was no answer forthcoming».

Eyewitness (29 years of age): «The bus was packed with people. Policemen were thrashing everyone. Those who dared declare their rights were beaten with especial savagery».

Eyewitness (14 years of age): «Then we were hauled to the bus, where we were ordered to sit on the floor with hands tied behind our backs. Near the shop «Laste maailm» a Finn of 19-20 was added to our company. Then there was an Estonian-speaker man picked up, who cursed the policemen. They started whacking him with truncheons on his head, until he bled».

Eyewitness (21 years of age): «Then a car came and we were carried nobody knows where and why... I actually knew where I was only after I was released».

7. House of detention in Rahumäe and courthouse in Liivalaia Street on 26-27 April 2007: conditions of detaining

There is evidence that during the disturbances those detained were held in crowded cells. There are also reports that detainees had to take a beating. There is also a piece of evidence concerning medical aid.

Eyewitness (a lady 18 years of age): «We were 6 in a four seat cell. There were no toiletries in the cell or mattresses; there were only iron bunks. It was very cold». (*House of detention in Rahumäe*).

Eyewitness (21 years of age): «I was put in cell. Nobody extended any explanations. People kept arriving in the cell. There were 4 trestle-beds, but the cell population was soon 20». (*House of detention in Rahumäe*).

Eyewitness (25 years of age): «The cell where I was put was a four-bed one, but there were 18 people there». (*House of detention in Rahumäe*).

Eyewitness (20 years of age): «In the cell meant for two inmates, there were 7 people. Air was very stuffy in the cell». (*Court building in Liivalaia*).

Eyewitness (36 years of age): «When doors of the bus were flung open, I saw a line of policemen, who drove us to the basement with kicks and stabs in the back. In the basement, there were lots of people: some of them were standing with face to wall, some were on the floor, and many were unconscious. I was put at the wall, but when I tried to stretch my legs, I was pushed to floor. Then there was beating, which was particularly savage. Seemingly the police wanted to humiliate and debase me. My head was banged on, legs were spread apart in different directions, and the body was straddled upon. All that was accompanied by horrendous cries and din. Half an hour later I was taken to a cell... When I was released, I went to the street and understood, that I had been in the building of Liivalaia court».

Eyewitness (a lady 41 years of age): «When we were brought to the hangar of the building of Liivalaia court, the clamps on my legs were removed, and I was set with my face against the wall. After about fifteen minutes my hands, too were unclasped. In the hangar I was standing approximately until four o'clock in the morning. It was bitterly cold, and my feet were freezing. I was not allowed to sit. I tried to explain that my foot was causing me pain (after multiple fracture a metal pin was set in the bone). The female policeman retorted that I should not live here anyway».

Eyewitness (25 years of age): «In the cell, I felt sick, because I suffer from stomach ulcer (I have available the case history). I nauseated. We demanded medical aid. A doctor came, gave me a pill and said in a brusque manner that ulcer was not a big deal and that I should better not swill alcohol so much. I demanded that my blood should be tested for alcohol content, but my request was declined... Approximately after three hours I had a renewed paroxysm. We asked again that a doctor should come to see me, however he never came to the cell. This event can be confirmed by all kept in the cell». (*House of detention in Rahumäe*).

8. «D-terminal»: conditions of detaining

The largest number of reports of the witnesses concerns the conditions of detention in the so-called D-terminal, i.e. warehouse premises in the area of Port of Tallinn. It would be suitable for our particular ends to distribute them into several groups.

8.1 Squatting; hands bound

Practically all witnesses recall that the detainees were forced to squat, doing it with hands bound, which caused physical torment.

Eyewitness (30 years of age): «Someone behind offered me to sit down, but I refused because the floor was dirty. It occurred however that people were sitting down against their free will: someone pulled me by collar and struck me at my legs, sending me sprawling on my back».

Eyewitness (a lady 50 years of age): «We were made to squat. After some time, female policemen took over the guard duty. A chance to stand up appeared for women: they did not care. Men were not allowed to do so, however. Men were beaten while they were lying down, with hands bound. Those who could not move after the beating were dragged out by feet».

Eyewitness (43 years of age): «I together with other detainees were forced by the police operatives, by use of coercion, to squat or knee down during almost 6 hours on the cold concrete floor, while my hands were fettered with handcuffs. I was forbidden to stand to stretch my legs. When I or someone else from among detainees made an attempt to stand up, we were given a savage beating».

Eyewitness (14 years of age): «We were brought to D-terminal, we were seated on concrete, the handcuffs were removed after approximately 3 hours. Beside me a man was lying down, motionless, his hands in handcuffs had gone blue. Another man asked that his handcuffs should be taken off – his hands had gone numb. Two policemen approached him and tightened the straps up, instead. The man cried: «It hurts me, what are you doing?» Then policemen grabbed him from the scruff of his neck and dragged him to the corner, where they gave him a beating with truncheons».

Eyewitness (47 years of age): «Squatting in the dust was very uncomfortable. After 10 minutes my legs went numb, however the attempts to stand up were nipped in the bud by blows with rubber truncheons and feet... Moving among the policemen were also people in civilian clothes. Evidently, it was «Kaitseliit» [«Defence League», paramilitary organisation]. When one of them ordered me in Estonian «Down!» I asked, what he was and why I should obey him. He brought me, bound and shackled, down on the dusty floor and started beating me with feet in stomach (damaging the sutures which were set after operation several years ago). After that they nevertheless put on fluorescent vests, seemingly for the purpose of looking like policemen».

Eyewitness (18 years of age): «We were not allowed to stand up. When we stood to stretch our legs, we were beaten by people in black uniform from special squad. We were not even allowed to sit».

Eyewitness (29 years of age): «We were made to squat and forbidden to stand. Those standing were brutally beaten... When somebody managed to untie his hands, he was tied anew so tightly that his hands went numb».

Eyewitness (43 years of age): «Because my hands had been fettered with handcuffs for as long as four hours, I appealed to the police operatives to fetter my hands on my breast, or loosen the handcuffs. My request was met with peals of laughter».

Eyewitness (32 years of age): «I was forbidden to stand to stretch my legs. When I or someone else among detainees attempted to stand, however, we were brutally beaten with truncheons. They beat us at our legs, at ribs, in groin».

Eyewitness (32 years of age): «... I was ordered to kneel. I said that when I was apprehended my leg was smashed and I could not kneel. For that, I got a blow with truncheon in solar plexus and I was seated by force on a very dirty concrete floor. I remember well that specific policeman – he was a young man on the shorter side, wearing a close-cropped hairdo».

Eyewitness (33 years of age): «After three hours we were allowed to stand for 15 seconds».

Eyewitness (18 years of age): «I asked several time to change the handcuffs on me. That was not done. When my handcuffs were being removed, the police could not cut them off – they had been fixed so tight and had cut into flesh. It took the police 20 minutes to get them off me, by wringing my hands all the time».

8.2 Bringing physical pressure to bear on those apprehended

Extremely many pieces of evidence concern the cases when collaborators of law enforcement bodies beat the detainees (part of such cases has been presented in the above section «Squatting; hands bound»). A number of witnesses point out the unmotivated character of physical coercion practiced on detainees. Eight witnesses referred to beating of an elderly foreigner/German, who demanded something of the guard. These and other recurrent concrete pieces of evidence are presented only once, although it is not excluded that some of the «stories» may repeat.

Eyewitness (32 years of age): «Policemen strolled by and beat detainees with truncheons, if those tried to ask them of something or if they asked the permission to go to the toilet».

Eyewitness (32 years of age): «In the hangar there was an iron railing, already holding a dozen people. It was the place to put the people unwilling to sit down; 3-4 policemen beat them there. Of especial brutality was the conduct of people in black uniforms and masks, carrying an inscription on their back «Operatiivgrupp» (Operative group)».

Eyewitness (43 years of age): «Under my very eyes policemen from the prison special squad beat a detainee until he lost consciousness, dragged him to the wall and left him lying in the pool of his own blood».

Eyewitness (30 years of age): «I was helped to stand up and I was taken to another end of the hangar, where I was sitting about four hours, observing how the police officers beat the people».

Eyewitness (30 years of age): «Among guards there were young people, I reckon younger than 18, excelling in beating».

Eyewitness (29 years of age): «In my presence, people were beaten with truncheons on head, then they were dragged along the floor to the cage... I also saw how an elderly German of 60-65 in beige jacket was beaten. First he was beaten, and then he was shackled with handcuffs to the cage. Policemen carried beaten up people from hangar to the street».

Eyewitness (18 years of age): «All without exception were beaten, even young girls. Beaten with feet were those standing, and those lying down also got a beating. On one of the detainees, foam was poured from a container; it burned his face, he howled... One of the boys was beaten so that he screwed up his eyes in pain. Then he was carried away».

Eyewitness (47 years of age): «Two persons, wearing a close-cropped hairdo, manifested especial ferocity... and one wearing glasses who evidently greatly enjoyed thrashing and drubbing the people. The others thrashed us from time to time... When the guards fell on someone and beat them heartily, and we all started crying for them to stop, they attacked us and beat us... One of the guys proposed that we should stand up from the squatting posture, thereby expressing our protest. The majority, who were able to, stood up. The guards started thrashing everybody without discrimination. Another batch of some 20 policemen rushed in. The protesters were sent sprawling on the floor or were forced to squat again, with truncheons... After change of the shift, three men in black came in. They were especially savage; they beat with metal clubs and heavy boots».

8.3 Availability of water, possibility to go to a WC

Some of the witnesses point out that the detainees were not given water to drink. Some were taken to the toilet. There are also pieces of evidence suggesting that many persons kept there were refused the benefit of toilet.

Eyewitness (32 years of age): «During the whole time I stayed in custody I was not offered a single drink of water. Not everybody was granted permission to go to the toilet. Those insisting on that and creating uproar were beaten».

Eyewitness (32 years of age): «I asked permission to go to the toilet but the policeman gave me a swinging blow».

Eyewitness (47 years of age): «Many wanted to drink, however none was ever given some water. Nobody was taken to toilet either».

Eyewitness (43 years of age): «I was taken to toilet only after 4 o'clock in the morning, when I had asked the policemen for the fifth time».

Eyewitness (27 years of age): «The requests of detainees to be taken to toilet went unanswered».

8.4 Availability of medical aid

According to evidence the medical aid was available, although it was administered in specific conditions. It should be pointed out that among the witnesses there were no people with medical education.

Eyewitness (23 years of age): «Approximately at 22.30 policemen started to pellet the crowd with rubber bullets. The stray bullets also hit people not participating in rally. One hit my right hand, and I winced with pain and turned aside. Thereupon I got a blow with truncheon on the back of my head. That blow cracked my head. Then I was hit on my knee. I fell, and was bundled up and thrown in a car together with other detainees. I requested medical aid but my appeals were ignored. I was taken to the D-terminal of the port, where my consciousness started slipping away. It was only then that my head wound was just dressed. Later I felt increasingly worse. A young person being beside me called help. Nurse examined me and said that I should be taken to the hospital. I was heaved up by two policemen but I fell, due to loss of energy. Nobody cared pick me up, I was just dragged to the ambulance car».

Eyewitness (a lady 50 years of age): «Already in the bus I felt that there was something wrong with my hand. I requested a doctor. After some time the doctor came, looked at me and left».

Eyewitness (18 years of age): «One of the people developed [a paroxysm], they started beating him. I started clamouring for a doctor, then they fell on me».

Eyewitness (47 years of age): «There were many people with serious traumas: fracture of nose (he was not even allowed to wash his nose, some sort of children's sticking plaster was stuck to it), fracture of fingers, a wide wound on leg. Doctors were there, but they did not provide medical aid of any great substance... I do not know why he was beaten [by policemen], but he got a severe beating... After ten minutes, noticing that he did not move I asked the policeman to call a doctor... The doctor, having examined him, departed with a smile suggesting that everything was OK. But when we were released at four o'clock, he was still quietly lying down».

9. Apprehensions (arrests) on 26-28 April 2007: problem of informing the relatives

Many witnesses from among those detained complain that they were not allowed to inform the relatives about the detention. Nor did collaborators of law enforcement bodies inform the relatives.

Eyewitness (32 years of age): «Nobody explained to me the cause of my detention, no accusations were presented, my rights were not explained to me and I was not allowed to make a single telephone call».

Eyewitness (43 years of age): «I was not allowed to call my relatives, in order to tell them of my predicament... [In D-terminal] I was beaten, in response to my requests to call my relatives».

Eyewitness (32 years of age): «At the beginning [in D-terminal] I could still move and approached the table, where female policemen were sitting, to ask them permission to contact my wife. They started yelling at me. People in black special habiliment approached, in masks, and started yelling and beating everybody with truncheons».

Eyewitness (a lady 18 years of age): «I was taken to the penal house in Mustamäe. I was not allowed to contact my mother and my telephone was taken away». (*She meant: house of detention in Rahumäe*).

Eyewitness (32 years of age): «I was not allowed to call my family, in order to tell them of my arrest».

Eyewitness (14 years of age): «Approximately after three hours of sitting down the policeman asked my age and took me to a room where a woman recorded my personal details. Handcuffs were taken off me and I stood another couple of hours. I then asked the police whether my mama had been called. I was again taken to that room and my mama was called in my presence. Mama worked in the night shift... and could not collect me. I was seated in a car and driven home. It was 4 in the morning».

Eyewitness (33 years of age): «At next morning I asked permission to give a call to my wife. They promised me to do it for me, but my wife never received a call».

Eyewitness (21 years of age): «During all the time of being locked up (20 hours) I was never allowed to give a call».

Eyewitness (a lady 54 years of age): «It was only in three days, on 29 April, after repeated appeals to the police I learned that my son had been arrested».

Eyewitness (a lady 67 years of age): «On 26 April at 18:35 my son was travelling from Tapa to Tallinn... At 23:00 I called him on telephone, but it was switched off... I then called the detention house and learned that my son was put under arrest and sent to Tartu penitentiary on 28 April. This information came to my notice as late as 30 April. No state authority apprised me of detention of my son».

AFTERWORD

Three months after the April events, Jaak Aaviksoo, the Minister of Defence of Estonia awarded Tarmo Miilits, the Director of the Law Enforcement Department of the Põhja Police Prefecture, and Andrus Truss, Chief Commissioner of the Kesklinn Department of Põhja Police Prefecture with golden lapel badges for the job done «in the course of fulfilling the Law on Military Graves Protection». In his reply Tarmo Miilits said that most of all he was impressed by the support of ordinary people: «An old woman brought pancakes with jam to our headquarter, people brought armfuls of roses to police girls, and in the morning café attendants asked whether we were hungry» (*Delfi, 10 August 2007*).

The Legal Information Centre for Human Rights received but a small part of the charity then given but it was due to the support of ordinary people in Estonia and Latvia that we were able, as far as we could, to provide legal and psychological help to those who suffered in the course of the April events. We regret that due to many reasons we cannot publish the names of the people whose donation made it possible for more than 50 victims, who applied to our centre, to get help, to try to defend their rights and their dignity. We cannot publish the names of the volunteers who helped us consult people over the telephone hotlines, to compile and translate letters, reports and statements, and, finally, to prepare this document. Our sincere gratitude and compliments to all of them!

We are grateful to the journalists and staff members of the printed and electronic media who published our statements and interviews with our specialists, and who invited us onto their programmes.

We are grateful to the international human rights organisations who expressed their concern with the situation in our country, who made appropriate statements and took certain measures.

The behaviour of the Estonian establishment suggests that they do not want and are not able to undertake political responsibility for their activities before and during the April crisis. But most important for us is the fact that the question whether many law enforcers behaved correctly remains unanswered. The question will persist until the competent agencies have undertaken a *comprehensive and independent* investigation. We hope that this publication will contribute to achieving this goal.

Legal Information Centre for Human Rights

ANNEX I

In what follows, sample cases of complaints and a typical answer from the police prefecture are presented, containing a refusal to initiate a criminal procedure.

1. Application of Aleksei Rattik to the police (English translation of Russian unedited text; presented to Legal Information Centre for Human Rights «to be taken cognisance of»)

On 27 April I was going home from the side of «Kaubamaja» to Mustamäe. In the centre of town the traffic of public transport was obstructed. It was about 10:35-10:45 p.m. Policemen, stationed at about Independence Square did not obstruct my way when I was crossing the square and never mentioned that it was prohibited to enter that section of town. The road in the direction of Tõnismägi was blocked by a crowd of people and police. I decided to go through Toompea, past Alexander Nevski Cathedral, to the stop «Koidu», where trolleybus no. 3 stops. When I was ascending the stairs, the crowd from Independence Square ran to the centre of Old Town. Police was treading on their heels, firing.

When I saw that from the side of Alexander Nevski Cathedral, police, dazed with rage is running flailing truncheons in their hands, flogging everybody within their reach, either those standing quietly or running, I kneeled on grass at the side of the road and laid my hands on my head. A policeman with a truncheon run up to me (he had no tag with his name), and he wanted to make me stand up. Threatening my with his police truncheon, he yelled for me to stand up and go to the road. Seeing that all standing up and going to the street were first shot at by a special squad (moving to the direction of Alexander Nevski Cathedral from Independence Square, firing away with guns loaded with rubber bullets), and were thereafter beaten up by police with the help of clubs, I said that I was already kneeling well, all the time holding hands on head, and that I intended to do no harm to anyone. Thereupon the police laid me face down on the ground and fixed my hands behind my back with makeshift handcuffs. It was approximately 10:50 p.m.

I was then lifted up, taken to the street and laid on stone pavement, face down. Nobody of policemen explained for what I had been apprehended. Those asking something of the police, were chastened by police with blows of truncheons aimed at body. I therefore decided that it would be better to stay silent (police bawled at all «Shut up!»). Nor was I advised that the feet must be spread to the width of shoulders, I just got a kick at my legs, which were spread by kicks.

Approximately at 11:05 p.m. a policeman raised me up (he was speaking Estonian). He strongly seized me by my provisional handcuffs and gave a jerk so that my shoulders gave a crunch in the area of shoulders. Together with remaining detainees I was seated in a bus and was taken to barracks at D-terminal in the Port.

In the barracks, I was seated on the ground. In my presence, citizens of Estonia and those of other countries got it hard, in the way of beating. People, who dared ask questions of police, got a shower of blows with truncheons instead of an answer. At about 11.30 p.m. citizens of Estonia in police uniform arrived, carrying truncheons in hands. They started flogging the detainees with utterly brutal techniques for every transgression and also because the detained

people asked questions. I saw when citizens of Germany were beaten (father and son), when they wanted to convey to the police a message that they wanted to the WC, that they did not understand Estonian, that they were victims of police blunder.

I got to the toilet approximately three hours after I first requested it. One of the citizens of Estonia (he spoke Estonian) in police uniform (I could recognize him because he excelled sadistic whipping of detainees) approached me and tightened up my provisional handcuffs so that my hands went numb and my veins bulged up. Because I relocated my hands with provisional handcuffs to the front, from behind the back, I saw that my hands had become white in hue. After that I asked another policeman to loosen the (provisional) handcuffs and to put new ones on me. After a quick look at my hands he took off the old ones and put on new provisional handcuffs, more loosely. Citizen of Estonia in police uniform, who tightened up my earlier handcuffs admitted to me in the process of a short dialogue that he was a fascist. He said: «Yes, I am a fascist».

I was released at about 3:00-3:15 a.m. in the night of 28 April, having recorded my details. But even when I was let go, I did not get an answer to my question «For what did you detain me?»

[signature]
4 May 2007

Note: the application was accepted by Põhja Prefecture of Police on 4 May 2007.

2. Notice on refusal to initiate criminal procedure no. 0723000008 (unofficial translation from Estonian)

Mr. Aleksei Rattik
Tallinn, 10 May 2007

We shall hereby bring to you knowledge that on the basis of materials, registered in information system POLIS of Põhja Prefecture of Police under no. 2300,07,0,0000265, the allegation that police had illegally used force with respect to applicant on 27 April 2007, has not been supported with evidence. The applicant failed to present a certificate about bodily injuries sustained (except for the trace of clamp of the handcuffs).

In view of the events the Republic of Estonia witnessed on 27 April 2007, police was under obligation to react to violation of law and order, to procure internal security of the state and public safety.

Due consideration, too should be given to the time, place and situation prevailing in the process of those events. Involved were large masses of people and there was a dire need to provide for general public order in the period of disturbances, therefore the police was entitled to act under pp. 6 and 8 part 6 Article 14 of Law on Police, specifying that for detaining offenders, taking offenders to the police, the police has the right to use physical force and special equipment (e.g. handcuffs) to provide for their own safety, or if there are valid grounds to believe that the detained offenders might cause damage to other people, those around and to themselves.

On the basis of the above and with reference to Article 194 and p. 1 part 1 Article 199 of the Code of Criminal Procedure (KMS), the criminal procedure will not be initiated for lack of respective motive.

In case you disagree with the decision taken, you have the right, subject to part 1 and part 3 Article 207 KMS appeal against the decision on refusal to initiate procedure, to District Prosecutor's Authority within 10 days as from the date of receipt this notice. Subject to part 2 Article 198 KMS, the refusal to initiate the criminal procedure will be brought to the knowledge of person, in respect whereof the complaint about offence has been presented.

3. Complaint about the National Prosecutor's office's ruling (draft; unofficial English translation)

The Circuit Court of Tallinn

Complainant:

Gennadi Mihhaidarov

1) Circumstances of the offence

On April 27, 2007 at approximately 10 p.m. Gennadi Mihhaidarov, who was at that time on the Kaarli Avenue pavement, became an accidental witness of a mass meeting which was being held nearby. Mihhaidarov was not participating in the meeting and was apart from the protesters, beside the TV cameramen who were filming the scene.

Mihhaidarov wanted to leave, but at that moment the police started to shoot at the protesters and passers-by, not taking part in the mass meeting, with weapons loaded with rubber bullets. Two rubber bullets, which hit Mr. Mihhaidarov's arm and thigh, resulted in his personal injuries. Then a policeman holding a shield attacked him. The policeman delivered a blow on his head and knee, doing harm to Mihhaidarov's health, which endangered his life. On account of all these personal injuries, Mihhaidarov fell to the ground.

In such a physical condition Mihhaidarov was unable to offer any resistance. However, the policemen illegally tied his hands behind his back, using building tape which was not intended for this purpose, thus causing additional suffering to the complainant. The policemen then threw Mihhaidarov into a car, on top of other detained people. He asked for medical help, as he was becoming much weaker and was losing consciousness from his loss of blood. However, the police officials did not react at all to his requests for first-aid treatment.

Mihhaidarov was delivered to D-terminal and only there did he receive medical treatment: his head was bandaged and the bleeding was stopped. In D-terminal the policemen forced all the detained, including the presenter of the complaint, to squat constantly; the policemen humiliated Mihhaidarov's dignity with their shouts. He began to lose his consciousness because of the loss of blood, so the arrested person, who was next to him, called the nurse, and the latter called an ambulance. The complainant was not able to walk to the ambulance because of his state of health. The policemen then dragged him to the car, which should be also considered as treatment which humiliates human dignity.

2) Qualification of the offence

A police official, breaking the requirement of part 7 article 14 of the Law on Police, unlawfully used a rubber truncheon, hitting the victim's head, which caused harm to his health, endangering his life, that is, an offence, specified in part 1, article 118 of the Penal Code.

In addition to that, the police workers unlawfully, breaking the requirements of the Law on Police about application of weapons (article 15), used fire-arms loaded with rubber bullets and caused harm to the victim's health, that is, committed an offence, specified in article 121 of the Penal Code.

Apart from that, the policemen tormented Mr. Mihhaidarov, who was in need of urgent medical help, using force and causing great pains, when they tied his hands behind his back with building tape, that is, committing an offence, specified in article 122 of the Penal Code.

During the detention of the complainant a report about his detention was not made. In addition, a corresponding criminal case against him was not started; therefore, detention of the complainant did not have any legal grounds, that is, a criminal offence, specified by part 1, article 136 of the Penal Code, was committed in regard to him.

In addition to that, the police officials exceeded their authority and, breaking the basic principles of the police's activity, specified by article 4 of the Penal Code, unlawfully used weapons, special facilities and force, while being in duty status, that is, committed an offence, specified by article 291 of the Penal Code.

Apart from that, the police workers, using their official status, unlawfully treated the complainant, humiliating his dignity and restricting his rights, that is, committed an offence, specified by article 324 of the Penal Code.

3) Evidence

Evidence on which suspicion of committing crimes is based are:

1. A video of the detention of the presenter of the complaint;
2. A copy of medical documents testifying to causing harm to health endangering life,

4) A brief description of the legal procedure

On May 14, 2007 the complainant applied to the Chancellor of Justice.

On May 21, 2007 district prosecuting attorney Leelet Kivioja dismissed the case.

On June 28, 2007 the complainant presented his complaint to the National Prosecutor's office in response to the Põhja District Prosecutor's office's dismissal of the case.

On June 8, 2007 National Prosecuting Attorney Anna Kasesalu dismissed the case.

National Prosecuting Attorney Anna Kasesalu's arguments are based not on the analysis of the actual circumstances of the complainant, but on contradictory abstract suppositions. On the one hand, she claims that the complainant could have suffered from his own 'accomplices'. On the other hand, she claims that his behaviour was not law-abiding and he «didn't submit to a lawful order of the police officials to leave the place of the unsanctioned mass meeting and the police officials were forced to take measures in order to maintain public order».

If the National Prosecuting Attorney has the facts that the complainant suffered from the third parties, then a lawsuit is supposed to be entered in their regard. But from the dismissal of the case it is clearly seen that Ms. Kasesalu's suppositions are based on the reference to some TV broadcasts. Moreover, it is not explained what type of broadcasts they were, whether they were broadcast from the place of the incident, whether the complainant appeared in those broadcasts,

etc. As for the second supposition of the unlawful behaviour of the complainant and the police's actions in response to that, here we can see that the state attorney gravely breaks the principle of presumption of innocence. In regard to the complainant a lawsuit was not entered and no claims were raised. Nevertheless, National Prosecuting Attorney Kasesalu *a priori* thinks that the complainant is a trespasser. What is more, on the basis of this statement she does not think it necessary to hold an investigation, as specified by Estonian legislation, in regard to the police's unlawful actions.

The complainant is not a trespasser and with regard to him not a single document testifying to the opposite was presented. It is also necessary to emphasise that, according to part 7 Article 14 of the Law on Police, the police use special equipment, cut-and-thrust and gas weapons taking into account the nature of an offence, a trespasser's personality and actual circumstances. In case of the application of special equipment, cold and gas weapons, causing greater harm to one's health than it is necessary in the actual situation, should be avoided. Using force in regard to the complainant was absolutely groundless, since he did not participate in any acts of violence and he did not pose any threat to anyone. The police workers did not have the slightest grounds for his detention, as well as hitting him on the head with a truncheon and putting handcuffs on him. We think that the Põhja District Public Prosecutor's office and the National Prosecutor's office did not take the aforesaid arguments into consideration.

The fact which demonstrates the superficiality of the analysis of the complainant's application on the part of the national prosecuting attorney is that the prosecuting attorney irrelevantly refers to the ruling of the Supreme Court of 6 June 2005 in case 3-1-1-56-05. In the ruling it is said that the complaint about the National Prosecutor's office's dismissal of the case can be applied to the Circuit Court only by means of a lawyer. This does not have any relation to the matter. The complainant has never controverted this standard of law.

The National Prosecutor's office, breaking the principles of the procedural criminal law on the obligation of criminal proceeding and lawfulness, specified by articles 6 and 30 of the Code of Criminal Procedure, unlawfully issued decree about refusal of initiating a criminal case, which caused harm to Mihhaidarov's constitutional rights and freedoms and hindered his access to justice, specified by part 1 article 6 of the European Convention on Human Rights.

5) Procedural actions not carried out groundlessly

The procedural actions which weren't carried out without any grounds are:

1. Interrogation of the complainant;
2. Attachment and examination of the video filmed during the police operation;
3. Attachment and examination of the videotape of the web-camera, which was located in the place of Mihhaidarov's detention;
4. Attachment and examination of the videotapes of the TV cameramen who filmed these events;
5. Request from the police prefecture and attachment of the materials on the detention;
6. Interrogation of the medical worker in D-terminal;
7. Interrogation of the workers of the ambulance who hospitalized Mihhaidarov;
8. Interrogation of the physician in charge;
9. Commission of the medical examination;
10. Establishment and interrogation of the witnesses of the detention.

On the basis of the above-stated, we conclude that the actions of the District and National Prosecutor's offices in the following case are directed to the complainant's deprivation of access to justice. In regard to the complainant article 5 and article 6 of the European Convention on Human Rights are broken. As well as this, refusal to investigate the action, prohibited by article 3 of the same convention, can be considered as the state's inability to guarantee the complainant the right not to be subjected to torture and other inhuman and degrading treatment.

On the basis of the fact that in Mihhaidarov's application there are features of the offence, specified by part 1 of article 118, by articles 121, 122, 291, 136 and 324 of the Penal Code and also on the basis of article 13 of the Constitution of the Republic of Estonia and being governed by parts 1 and 2 of article 208 of the Code of Criminal Procedure, we are petitioning for the repeal of the ruling on dismissal of the case and obligate the National Prosecutor's office to initiate proceedings.

Appendix:

1. Disc with video materials of detention;
2. Copy of medical documents, on two sheets;
3. District Prosecuting Attorney Leelet Kivioja's ruling of 21 May 2007;
4. National Prosecuting Attorney Anna Kasesalu's ruling of 8 June 2007;
5. Application of the complainant, on two sheets.

(Lawyer's signature)

9 July 2007

ANNEX II

Statements of international human rights organisations regarding the April crisis

1. The International Helsinki Federation for Human Rights – IHF

Estonian Authorities Must Investigate Allegations of Police Brutality during War Memorial Riots

Vienna, 30 April 2007

The International Helsinki Federation for Human Rights (IHF) is calling on the Estonian authorities to investigate in a thorough and impartial manner allegations of police brutality during the recent wave of riots in the country and to ensure that any further riots are dealt with strictly in accordance with international standards.

Violent protests broke out in Tallinn on 26 April over a decision by the Estonian government to remove a Soviet war memorial in the centre of the capital. During two nights of riots, mostly Russian-speaking youth clashed with police, looted shops and vandalized property. Police responded with e.g. tear gas, flash bombs and water cannon and arrested about 1,000 people. One man was stabbed to death and dozens were injured in the riots. In the night 28-29 April, protests spread to predominantly Russian-speaking cities in northeast Estonia.

According to media reports as well as reports received by the IHF, police in some cases used disproportionate force against riot participants. Some protesters were reportedly hit with batons, beaten and mistreated after being taken into custody in a temporary detention facility established in a terminal at the Tallinn port. Some cases of apparent police brutality were documented by TV broadcasts and cell phone recordings.

While it is the task of law enforcement authorities to maintain public order and guarantee the safety of citizens, they have an obligation under international standards not to use force except when strictly necessary and only to the extent required for the performance of their duty. (1) They may only resort to the use of force if other means remain ineffective or without any promise of achieving the intended result. (2) Cruel, inhuman or degrading treatment is prohibited by international law at all times. (3)

The riots in Tallinn and other Estonian cities have served to highlight remaining problems relating to the integration of the country's Russian-speaking minority, which constitutes about one third of the 1.4 million residents. Despite a number of important legislative reforms since the first years of independence, this minority is still not officially recognized as a linguistic minority and continues to face discrimination and exclusion in everyday life, thus fostering frustration and resentment among its members. Many Russian-speakers still lack Estonian citizenship, Russian-language education has gradually been reduced and stringent language requirements restrict access to the labor market for Russian-speakers.

For more information:

Aaron Rhodes, IHF Executive Director, +43-676-63566 12;
Henriette Schroeder, IHF Press Officer, +43-676-72548 29

References: (1) *Article 3 of the United Nations Code of Conduct for Law Enforcement Officials Adopted by General Assembly (1979)*, available at <http://www.ohchr.org/english/law/codeofconduct.htm>; (2) *Article 4 of United Nations Basic Principle on the Use of Force and Firearms by Law enforcement Officials (1990)*, available at <http://www.ohchr.org/english/law/firearms.htm>; (3) *See article 7 of the International Covenant for Civil and Political Rights, article 3 of the European Convention for Human Rights.*

Available at <http://www.ihf-hr.org>

The International Helsinki Federation for Human Rights (IHF) is an international, non-governmental organization constituted by national Helsinki Committees and Cooperating Organizations in the participating States of the Organization for Security and Cooperation in Europe (OSCE). The IHF mandate is to protect and strengthen civil society groups that monitor and report on human rights issues from a non-partisan perspective, and to bring them together on a common international platform.

2. The European Network Against Racism – ENAR

ENAR calls on the Estonian government to take account of the impact of recent events on community relations

Brussels, 4 May 2007

Last week, demonstrations took place in Tallinn, Estonia and escalated into violent street protests in several cities during the weekend, following the Estonian government's decision to relocate a Soviet-era war monument.

ENAR is very concerned that initial peaceful demonstrations turned into riots and emphasises that acts of vandalism can never be justified. ENAR also supports the Legal Information Centre for Human Rights, head of ENAR's National Coordination in Estonia, in their call for an end to the escalation of violence and incitement to ethnic hatred. They have urged the Estonian government to avoid actions that minority members will consider as provocation degrading human dignity and to prevent and punish cases of aggression based on ethnic grounds by police officers.

This situation highlights the lack of dialogue between the majority and the Russian minority in Estonia. It is essential that different opinions are tolerated in a democratic state, also in a majority-minority context. The Estonian government must now take account of the broader impact these events will have on community relations and respond to the crisis in a way that encourages dialogue and equal treatment.

ENAR urges Estonia to initiate a National Action Plan Against Racism so as to achieve a more equal society. A comprehensive and long-term strategy to address racism would enable the government to systematically work towards equality for all, as well as work together internationally with other governments.

The European Network Against Racism (ENAR) is a network of European NGOs working to combat racism in all EU member states and represents more than 600 NGOs spread around the European Union. Its establishment was a major outcome of the 1997 European Year Against Racism. ENAR aims to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local/regional/national initiatives with European initiatives.

For further information, contact:

Georgina Siklossy, Communication and Press Officer
43 rue de la Charité
B-1210 Bruxelles
Phone: 32-2-229.35.70 – Fax: 32-2-229.35.75
E-mail: georgina@enar-eu.org

Available at <http://www.enar-eu.org>

3. The International Federation for Human Rights – FIDH

Estonia must investigate human rights violations committed during riots in Tallinn

9 May 2007

The International Federation for Human Rights (FIDH) and the Latvian Human Rights Committee (LHRC), its member organization in Latvia, express their concern about the human right violations perpetrated both by demonstrators and police during riots in Estonia that left one person dead and more than 150 people injured.

On 26 April in Tallinn (Estonia) clashes sparked between the demonstrators (mostly representatives of Russian minority), who protested against the controversial removal of the World War II Soviet Army monument and the police using tear gas, batons, flash bombs, water cannon etc. After the monument was moved to a military cemetery in a suburb, a wave of vandalism broke out in Tallinn on 26 – 27 April.

According to reports of witnesses, the police in some cases used disproportionate force not only against riot participants but also against peaceful demonstrators and even against passers-by. Some people were reportedly hit with batons, beaten and mistreated after being taken into custody in a temporary detention facility established in a terminal at the Tallinn port.

On 27 April the security police arrested several leaders of the Night Watch (the organization opposing the removal of the monument by peaceful means), including 18-year-old anti-racist activist Mark Siryk, who due to illness and preparing for school exam did not participate even in the peaceful demonstration on 26 April. Since then, the Estonian embassy in Moscow has been under siege by Russian demonstrators and diplomatic relations between the two countries are in profound crisis.

FIDH and LHRC condemn acts of vandalism perpetrated by demonstrators in Tallinn, as well as the blockage of the Estonian embassy in Moscow.

FIDH and LHRC urge the Estonian authorities to investigate all acts of human rights violations committed during riots and the police brutality, excessive use of force and cruel, inhuman and degrading treatment in an impartial way and remind that the right to a fair trial must be fully guaranteed. They also call upon the Estonian authorities to put an end to any practice of discrimination against the Russian-speaking minority, which constitutes about 30% of the Estonian population, and to conform in any circumstances with the provisions of the International Convention on the Elimination of all forms of Racial Discrimination. More generally, FIDH and LHRC ask Estonian and Russian authorities to avoid any action which would aggravate the violence.

For more information:

FIDH

17, passage de la main d'or

75011 Paris

France

+ 331435518 80

Available at: <http://www.fidh.org>

The International Federation for Human Rights (FIDH) unites 155 human rights organisations throughout the world (including 40 member organisations in Europe).



The Legal Information Centre for Human Rights

The Legal Information Centre for Human Rights (LICHR) was founded on May 2, 1994. Intimately involved in the setting up and consolidation of the LICHR were the non-governmental organisations of Denmark and Estonia. The LICHR launched its activities at the beginning of January 1995.

The LICHR is an independent non-governmental NGO, which activities are based on projects.

In its activities LICHR has mapped four high priority strategic spheres:

1. Conflict prevention: identifying the causes of potential conflicts through analysis and dissemination of information, as well as by enhancement of awareness and knowledge about the human rights;
2. Fostering the creation of the society based on human rights standards;
3. Analysis of the Estonian legislation for its conformity with the international instruments on human rights;
4. Provision of legal advice and aid to individuals, whose rights are not duly guaranteed or are violated.