

The Estonian Third Report on fulfilment of the Council of Europe Framework Convention for the Protection of National Minorities

Commentaries from the Legal Information Centre for Human Rights

1. General notes

The Legal Information Centre for Human Rights is thankful for the opportunity to comment on the Estonian Third Report on fulfilment of the Council of Europe Framework Convention for the Protection of National Minorities (hereinafter – *Report*). Our organisation would like to emphasise the constructive cooperation of the Ministry of Foreign Affairs with institutions of the civil society at drawing the said Report, which conduct could serve as an example also to other Estonian public authorities.

Report describes in sufficient detail almost all issues to be highlighted and the Legal Information Centre for Human Rights acknowledges the high level of drafting of the report.

We have an honour to bring to cognizance of those concerned that recently the Legal Information Centre for Human Rights prepared its own report on fundamental issues of realisation of the rights of minorities in Estonia, published in English in the book „Chance to Survive: Minority Rights in Estonia and Latvia“. That report can also be looked at in Internet at the address: <http://www.lichr.ee/main/assets/L-3-eng.pdf>.

In the deliberations presented below we will consider only those questions which in our opinion beg for additional comment within the framework of the Estonian Third Report. Supplementary information and comments of our organisation are also available in our aforementioned report.

2. Report: Part I

The Legal Information Centre for Human Rights deplores the liquidation of the Office of the Minister for Population Affairs. It was an important agency engaged in coordination of the Government's efforts for integration of the society. It needs be pointed out that during the periods in office of almost all incumbent Ministers, the Office was trusted by the minorities; it was a vital channel of communication between the Government and the minorities.

3. Report: Convention art.3

The Legal Information Centre for Human Rights views as justified and fair the criticism of the National Minorities Cultural Autonomy Act. However that section should be complemented with information about the attempts to found the Russian cultural autonomy; it should be explained why the Ministry of Culture did not support that initiative.

4. Report: Convention art. 4

4.1. Adoption of the Equal Treatment Act, belatedly adopted though it was (it took effect on 1 January 2009) must be declared as essential for rooting out discrimination basing on race and ethnicity. However interest of the authorities in application of that law has heretofore been inadequate. For that matter, the “Statutes of the Gender Equality and Equal Treatment Commissioner and his or her Office” went failed to be adopted up to the end of 2009.

In our opinion, the Estonian Report should consider in greater detail the events to be held for enhancing the level of public awareness of principles of equal treatment. Moreover, the statistics of work done by the Chancellor of Justice with applications on the topic of discrimination and equal

treatment should be emphasised. Let it be recalled that as from 2004 the power to promote the principle of equal treatment in Estonia has been vested in Chancellor of Justice.

4.2 When describing the measures stimulating the naturalisation process the respective statistics should be presented. In recent years that process has become slow (in 2009, 1,670 persons were naturalised, while in 2008 – 2,124 persons). Decrease of the number of individuals with undefined citizenship can only partially be accounted for by obtaining by them of the Estonian citizenship. The Legal Information Centre for Human Rights recalls that by reference to various sociological surveys, impediments at obtaining the Estonian citizenship are the language barrier and psychological difficulties (see e.g. Integration Monitoring 2008, http://www.meis.ee/raamatukogu?book_id=196). Of no lesser significance is also the fact that entitled to get naturalised under a preferential procedure are only the persons born before 1 January 1930.

4.3. Data on ethnic composition of the convicted individuals are available in Estonian Prison System and Probation Supervision Yearbook (Figure 9), see http://www.vangla.ee/orb.aw/class=file/action=preview/id=35787/Vanglate_aastaraamat_2007.pdf.

5. Report: Convention art.6

The Legal Information Centre for Human Rights deems it essential to point out that the Penal Code §151 was amended in 2006 ([RT I 2006, 31, 234](#)). Now a person can be only brought to justice for inciting hatred, violence or discrimination provided it causes danger to an individual's life, health or property. At such *corpus delicti* (elements of crime) it is for instance impossible to bring to justice those people who use hate speech in mass media. The attitude to that issue by Estonian authorities should be made mention of, even more so because the number of proceedings initiated on the basis of that clause has dramatically dropped.

6. Report: Convention art.7

It is impossible to ignore, in the context of the given clause the April 2007 events and amendments in legislation directly prompted by them.

The Legal Information Centre for Human Rights holds that after amendments of 2009, the Penal Code §239 can be used against participants of peaceful demonstrations, if those coincide temporally (also accidentally) with mass disturbance (the so-called ignoring of a legal order, the call to ignore the service duty). Apparently non-proportionate is presently the possibility specified by Aliens' Act to deprive a person of residence permit for any whatsoever anti-state deliberate criminal offences ([RT I 2009, 51, 347](#)), e.g. in case of convicting an alien on the basis of Penal Code §249 (disgracing of an official symbol of a foreign country and international organisation). Those issues need additional consideration in the Report.

7. Report: Convention art.8

Report should specify the progress in consideration of the question concerning lease to the Estonian Orthodox Church of the Moscow Patriarchate of the property that used to belong to the Estonian Apostolic Orthodox Church.

8. Report: Convention art.9

Authors of the Report failed to pay any attention to the Russian-language printed media of Estonia. Changes those have undergone in recent years should be described.

9. Report: Convention art.12

9.1 The Legal Information Centre for Human Rights would draw attention to the following questions when describing the transfer of Russian gymnasiums (upper secondary schools) to mainly Estonian, starting since 2007:

- What is the scientific motivation of the claim that specifically 60% of instruction must be delivered in Estonian;
- Why does the Government deemed it possible to launch the transfer in spite of lack of the support of the majority of the Russian-speaking population (by reference to data of sociological surveys, e.g. Ethnic Relations and Perspectives of Integration 2007, see <http://uuringud.tallinnlv.ee/document.aspx?id=10772>);
- How does the Government estimate the ever more recurrent cases of reorganisation and accelerated voluntary transfer to Estonian of Russian schools in small towns (where it sometimes triggers situations of conflict like e.g. in Rakvere)?

9.2 When presenting information about alumni of Russian schools having enrolled in higher schools it must be additionally clarified what part of graduates of Russian basic school continue studies in the Estonian-language gymnasiums and how many of them enter the vocational schools. Data should also be presented about dropout rate from higher school by alumni of Estonian and Russian gymnasiums.

10. Report: Convention art.15

10.1. When describing the difficulties of ethnic non-Estonian population in labour market it should be explained why according to the data of Statistics Estonia (<http://pub.stat.ee>) in 2008 the unemployment rate grew most rapidly among non-Estonian males (in the 4th quarter of 2008 the unemployment rate among the Estonian males grew about twice as compared to the 1st quarter (from 3.1% to 5.6%), however among non-Estonians – three times (from 4.6% to 13.5%). It should evidently also be explained why the young non-Estonian males turned out to be in the worst position (in 2009 among them in the age group 15-24 the level of unemployment reached 40.9%).

10.2 When referring to low proficiency in Estonian as a factor inhibiting the opportunities of non-Estonians in the labour market, the latest results of analysis of statistical data should be taken into account. Those suggest that good proficiency in Estonian does not presently guarantee equal opportunities to ethnic non-Estonians in the labour market, as compared with Estonians (see e.g. [Tööturu riskirühmad: mitte-eestlased](http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Toimetised/2006/3.pdf), at <http://www.sm.ee/fileadmin/meedia/Dokumendid/V2ljaanded/Toimetised/2006/3.pdf>).

11. Report: Convention art. 17

The Legal Information Centre for Human Rights must point out that certain Estonian state structures display openly extreme and hostile unwillingness to acknowledge the cultural and educational projects financed by private and state foundations of ethnical homelands of the minorities. This is particularly noticeable with regard to the Russian minority (e.g. public statements of the Estonian special services about the foundation „Russki mir”; media-club „Impressum” etc.). The official position of the Government of the Republic should be presented in that issue.

22 February 2010

Note: The “Statutes of the Gender Equality and Equal Treatment Commissioner and his or her Office” were adopted in June 2010 (see at: <https://www.riigiteataja.ee/ert/act.jsp?id=13327659>).

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