



**LEGAL INFORMATION CENTRE
FOR HUMAN RIGHTS**

NON-CITIZENS IN ESTONIA

Vadim Poleshchuk

Report

2004

Tallinn

Non-citizens in Estonia

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Legal Information Centre for Human Rights

ISBN 9985-9410-9-8

LICHR

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

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PRELIMINARY NOTES

The report of the Legal Information Centre for Human Rights *Non-citizens in Estonia* shall give the overview of the situation of the Estonian alien population. Our task was to address the most challenging problems of non-citizens as of February 2004. Thus, we did not pay much attention to the historical background and development of Estonian migration policies after 1991.

The term “non-citizens” will refer to all Estonian residents without domestic citizenship. Almost all of them resided on the territory of Estonia before 1991 when the country restored independence. Sometimes, such persons will be specially referred to as “Soviet era residents”. The term “stateless” will be used for Soviet era residents who have not any citizenship. Estonian authorities normally call them “persons with undetermined citizenship”.

The term “non-Estonians” will refer to both citizens and non-citizens of minority ethnic origin. Additionally, in Estonia the terms “an Estonian” and “a Russian” are the indication of a person’s ethnic origin.

Vadim Poleshchuk
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PART ONE. MIGRATION LEGISLATION AND POLICIES

1. Background information

Since the early 1700-s Estonia had been a part of the Russian Empire. After the October Revolution (1917) in Russia Estonia became an independent state. The Bolshevik Government recognized Estonian independence in 1920. In 1940 Estonia was made the part of the Soviet Union. Its independence was regained in August-September 1991 after the failed August coup d'état in Moscow.

According to the official position of Estonian authorities the country was “occupied” by the Soviets in 1940-41, 1944-91. The Russian Federation position can be boiled down to the statement that Estonia “acceded to the Soviet Union” in 1940. Only few Western countries recognized the incorporation of Estonia into the USSR.

In June 1990 the Estonian Supreme Soviet proclaimed *restitutio ad integrum* in the “occupied Estonia”.¹ In November 1991 the Supreme Soviet decided that only pre-WWII Estonian citizens and their successors will be automatically recognized as Estonian citizens². In 1992, following this decision the Supreme Soviet re-adopted the pre-war Law on Citizenship with several important revisions³. In 1995 a new Law on Citizenship was adopted⁴.

After the WWII the minority population of Estonia increased fourfold and reached 38.5% in 1989.⁵ Most of minority members are not the offspring of pre-war Estonian citizens. At the moment every third Estonian resident belongs to ethnic and national minorities. The largest ethnic resident group is the Russians that constitute 80% among all minority members.⁶ Russian is the mother tongue for the 1/3 of all Estonian population.⁷

In recent years the rate of immigration to Estonia was insignificant. Only 3% (8,221) of all residents born abroad arrived in Estonia in 1990-2000.⁸ In May 2004, Estonia is supposed to become a member of the European Union (EU). As a result the number of migrants may soar in the near future.

According to the estimations of the Citizenship and Migration Board, 32% of all Estonian population were persons “with undetermined citizenship” in 1992.⁹ At the moment the number of persons without Estonian citizenship has been decreasing due to migration, naturalization and natural reasons. According to the 2000 national census, non-citizens make up 20% of the total population.

Table 1. Legal status of the population of Estonia, 2000 national census¹⁰

Citizenship	Total	% of all population
Estonia	1,095,743	80.0
Russia	86,067	6.3
Stateless	170,349	12.4
Other and unknown	17,893	1.3

The overwhelming majority of all non-citizens are ethnic non-Estonians (97%).¹¹ Non-citizens dominate the minority population as well. The largest groups of non-citizens are stateless former Soviet citizens (“persons with undetermined citizenship”) and citizens of the Russian Federation.

Table 2. Legal status of the minority population of Estonia, 2000 national census¹²

Citizenship	%
Estonia	39.5
Stateless	37.6
Russia	19.4
Unknown and other	3.5

According to the 2000 national census, 53% of ethnic Russians were born in Estonia and 42% in Russia.¹³ Only 21% of Russian citizens were born in Estonia. However, the majority of stateless people (52%) were born in Estonia.¹⁴

These figures can characterize the rate of migration in the former USSR in the after-war period when many people arrived in Estonia in the frame of centrally-planned

industrialization projects. It is worth mentioning that the migration rate within Estonian borders was high as well. Thus, only 54.6% of all persons born in Estonia resided at the place of birth in 2000.¹⁵

2. Migration legislation

A. Legal basis for stay in Estonia

The core act that regulates non-citizens' status in Estonia is the Law on Aliens. It was adopted on 8 July 1993. By 2004 the parliament has made 23 amendments to this act. This law referred to both citizens of foreign states and stateless persons as to "aliens". In general the Estonian legislation makes no difference between these two categories of non-citizens.

According to the Law on Aliens (Article 9(1)), a foreigner may stay in Estonia on the basis of the following documents:

- 1) a residence permit;
- 2) a visa;
- 3) an international agreement;
- 4) a resolution of the Government of the Republic to forego the visa requirement;
- 5) a law, a court decision or administrative act.

Soviet-era residents that became non-citizens after 1991 do not have any special status. However, they are protected by a special clause in Article 20 (1) of the Law on Aliens:

An alien who applied for a residence permit before 12 July 1995 and to whom a residence permit has been issued [...] retains the rights and duties provided for in earlier legislation of the Republic of Estonia.

This rule is not applied to, *inter alia*, members of former Soviet/Russian military service and security officers and their family members (see also Article 12 (2³) of the Law).

In the middle of the 1990s, stateless former Soviet citizens experienced problems with valid IDs, which were necessary for residing in Estonia and traveling abroad. Due to pressure of Western countries and organizations, in 1996 these people were entitled for special Alien's passports¹⁶ that can be used as an ID both internally and internationally.

The Estonian authorities have normally emphasized the lack of legal links between non-citizens and the Estonian State. Thus, the Law on Consular Services only guarantees that Estonian consular institutions will provide resident non-citizens with "permission to return to Estonia" in case of loss of their travel documents (Article 49).

B. Residence permits

A temporary residence permit may be issued to aliens (Law on Aliens, Article 12 (1)-(2)):

- 1) for employment;
- 2) for enterprise;
- 3) for study in an educational institution;
- 4) in order to settle with a close relative permanently resident in Estonia;
- 5) if permanent legal income ensures their subsistence in Estonia;
- 6) if application for a residence permit is based on an international agreement
- 7) if applicant is a spouse of a permanent Estonian resident.

The first application should normally be submitted to a foreign representation of the Republic of Estonia. The Law enlisted a number of exceptions (e.g. for members of an Estonian citizen's family). An ethnicity based privileged is established for Estonians, their spouses and minor children. This provision is based on Article 36 of the Constitution which provides that "[e]very Estonian has the right to settle in Estonia".

The Law on Aliens has also established an annual migration quota. These provisions have been recently reviewed following the decisions of the State Court¹⁷ and now the quota (0.05 per cent of the permanent population of Estonia) is not applicable to most cases of family reunification. Additionally, every Estonian has a right to settle in

Estonia outside the quota, as well as citizens of the European Union, the United States of America, Norway, Iceland, Switzerland and Japan (Article 6). Presumably, the reason for exceptions made for citizens of the Western countries are of economical and ideological nature.

The legal basis for stay in Estonia of citizens of the European Union and their family members is regulated by the special Law on Citizen of the European Union, which enters into force upon Estonia's accession to the EU. This law foresees more liberal rules for visa-free stay and issuance of residence permits to the EU citizens and their family members following the requirements of *acquis communautaire*.

According to Article 12 (3) of the Law on Aliens, “[a] permanent residence permit may be issued to an alien who has resided in Estonia on the basis of a temporary residence permit for at least three years within the last five years and who has a valid residence permit, a residence in Estonia and permanent legal income for subsistence in Estonia, unless otherwise provided by this Law”. Permanent residence permit shall not be issued to an alien who received a temporary one for employment or study.

In October 2003, there were 263,412 valid residence permits in Estonia. 80% of them were permanent residence permits.¹⁸

After the Law on Aliens was adopted in 1993, most of Soviet era residents were guaranteed the receipt of temporary residence permits and then permanent permits. Some of Soviet era residents failed to receive this status since they lacked permanent income or place of residence.

If an alien stays outside Estonia for more than a total of 183 days without special registration in the Citizenship and Migration Board, his or her permit shall be revoked (Article 14 (2) of the Law on Aliens).

C. Special groups of aliens

The Law on Aliens bans issuance of a residence permit to certain categories of aliens (Article 12 (4)). This prohibition is worded in vague expressions and provides state officials with broad margin of appreciation. For instance, according to clause 3 of Article 12 (4) it is not possible to issue a permit to a foreigner if “his or her activities

have been or are or there is good reason to believe that such activities have been or are directed against the Estonian State and its security”. In fact, certain information about a particular fact may be substituted with suspicions. The same wording is used in other clauses of Article 12 (4) of the Law (See Annex II for details). According to the general rule (Article 14 (2)) a residence permit will be revoked in the cases listed in Article 12 (4). Thus, a convicted criminal may experience difficulties with receipt or prolongation of a residence permit.

In practice many concerns are related to issuance of a residence permit to an alien who has served as a professional member of the armed forces of a foreign state or has been assigned to the reserve forces thereof or has retired therefrom. They are not entitled for a residence permit; however, exceptions on the individual basis are possible. Additionally, the ban of issuance of residence permits is also valid for spouses and minor children of such persons but does not extend to citizens of the member states of the European Union or NATO and their family members (Article 12 (4), (5) (7)).

At the moment in Estonia reside ca 10,000 former Soviet/Russian military servicemen with their family members,¹⁹ mostly representatives of older generations. Residential rights for most of them were secured by the so-called July Accord (1994) between Estonia and Russia.²⁰ According to Article 2 (1) of the Accord former Soviet/Russian servicemen should be provided with residence permits if they are not dangerous for Estonian State security. Till recently they received their permits “by way of exception”. The State Court in its decision of 24 October 2002²¹ recognized that such aliens’ right to a residence permit is based on international treaty and they can in principle apply for permanent residence permits. However, in December 2003 the Law on Aliens was amended to prohibit the issuance of permanent residence permits to such non-citizens (Article 12 (2¹) of the Law on Aliens).

According to the Estonian official position, persons retired after the date of signing of the Estonian-Russian July Accord are not protected by the provisions of this treaty. The same approach was used by the Supreme Court.²² As a result members of some 115 resident families have been recently denied a residence permit with the reference to clause 4 of Article 12 (9) of the Law on Aliens that prohibits to issue a residence permit to a person who has committed to leaving the Republic of Estonia, has

received a residential space abroad within the framework of an international aid program or has received support for leaving Estonia. The abovementioned 115 families participated in a US-sponsored program on the basis of the bilateral US-Russian agreement in the early 1990s and later received temporary residence permits to stay in Estonia. Some of these persons have recently filed complaints in the European Court for Human Rights.²³

A former Soviet (and formally other country) security service officer and his or her spouse or minor children cannot receive a residence permit if “his or her age, rank or other circumstances do not preclude his or her conscription into service in the security forces or armed forces or other armed units of his or her country of citizenship” (clauses 10 and 14, Article 12 (4)). They cannot receive a permanent residence permit as well. Again, these rules are not applicable to citizens of the EU and NATO member states and their family members (Article 12 (7)).

In practice spouses of former Soviet/Russian military servicemen can receive a permanent residence permits without any difficulties after divorce. However, an alien will face additional difficulties if he or she marries a former military serviceman.

Since 1997 Estonia has a developed legislation on asylum seekers. Nevertheless, only 4 persons (out of 83) were granted the status by October 2003.²⁴

D. Illegal aliens

According to different estimations there could be 3,000-30,000 illegal aliens in Estonia. All of them can be divided into two main groups: persons that resided in Estonia before 1990-91 and “newcomers”. The first category consists of people who failed to receive a residence permit in Estonia because of rigid and inflexible legislation or personal fault. The second group mostly consists of illegal workers or persons who failed to receive a residence permit for family reunification due to migration quota.

According to the Law on Obligation to Leave and Prohibition on Entry an illegal alien may receive precepts of two types: precept to leave and precept to legalize. Both precepts may be appealed against in the court (Article 13).

A precept to legalize shall be issued to ethnic Estonians and to persons who settled in Estonia before 1 July 1990 and “has not left Estonia to reside in another country and whose continued stay in Estonia does not damage the interests of the Estonian State” (Article 9 (1)). According to the Law on Aliens (Articles 9 (3), 6 (2) and 21), these categories of non-citizens can apply for a permit outside the annual migration quota and within the Estonian state borders (of course, certain additional requirements may be applied). However, many illegal aliens will not be able to apply for a residence permit because they lack a legal basis for doing it. In practice, only family reunification can be used by these aliens to solve the problem of legalization.

Since 1 March 2003, an alien who entered Estonia with a visa and the visa expired 7 days ago as well as a prisoner without a residence permit may be expelled without issuance of a precept and without the permission of an administrative court (Article 14 (3¹)-(3²)). This rule is formally applicable to most of “newcomers” - illegal aliens.

3. Basis of state policies regarding aliens

A. *State integration policies*

In Estonia state policies on minorities and non-citizens are overlapping, as 60% of minority members do not have Estonian citizenship. Estonian society seems to be divided into Estonian- and Russian-speakers.

In the early 1990s Estonian Establishment cherished hopes that minority population would leave for Russia. However, the majority of non-citizens decided to stay in the country. In 1999 the first integration program was adopted in Estonia. It was followed by a detailed program *Integration of Estonian Society 2000-2007*.²⁵ The document gives the following description of the integration process (3.4):

The *nature* of the integration of Estonian society is shaped by two processes: on the one hand the social *harmonization* of society on the basis of knowledge

of the Estonian language and the possession of Estonian citizenship, and on the other hand the *enabling of the maintenance of ethnic differences* on the basis of the recognition of the cultural rights of ethnic minorities. The harmonization of society also means the integration of both Estonians and non-Estonians around a unifying common core (*italics of the original – V.P.*).

The program is divided into four subprograms (1):

1. *Linguistic-communicative integration*. It is defined as “the re-creation of a common sphere of information and Estonian-language environment in Estonian society under conditions of cultural diversity and mutual tolerance”.
2. *Legal-political integration* is referred to as “the formation of a population loyal to the Estonian State and the reduction of the number of persons lacking Estonian citizenship”.
3. *Socio-economic integration*, which is “the achievement of greater competitiveness and social mobility in society regardless of ethnic or linguistic attributes”.

In 2000-2003, various projects of the Integration Program received financial support of ca 225 million Estonian crores (EUR 14.46 million). Half of this sum was received from the state budget and another half from Western donors.²⁶ Acquisition of Estonian citizenship and language are the key element of the official integration strategy. Following these principles, the biggest part of all financial resources allocated to implementation of the Integration Program was to provide and facilitate language training for non-Estonian-speakers. The pattern of distribution was the same all the previous years.²⁷

Table 3. Financing of subprograms of the Estonian Integration Program in 2002²⁸

Subprograms	millions, Estonian crores / EUR	% of financing
I. Education (mostly Estonian language training and related activities)	19.8 / 1.27	46

II. Education and culture of national minorities	4.6 / 0.30	11
III. Estonian language training for adults	6.7 / 0.43	15
IV. Social competence	4.3 / 0.28	10
V. Management and monitoring of the Integration Program	8.0 / 0.51	18

The implementation of the Integration Program is based on valid legislation. The program does not intend to alter the previous and existing linguistic or naturalization policies. Furthermore, it based on them.

B. Linguistic policies

The core legal act of Estonian legal policies is the Law on Language. Article 1 (1) of the Law repeats Article 6 of the Constitution that “Estonian is a State language of Estonia”. According to Article 4(1) of the Law, “[e]veryone has the right to access public administration and to communicate in Estonian in state agencies, local governments, bureaus of notaries, bailiffs and certified interpreters and translators, cultural autonomy bodies and institutions, companies, non-profit associations and foundations”. This rule is supported by numerous provisions that regulate the scope and control over use of Estonian in both official and public domain.

In the process of integration a considerable consolidation effect is attributed to the official language. Indeed, Estonian is the main (and in most spheres the only) language of the official communication and of advanced levels of public funded education. Nevertheless, the role of Estonian in everyday interethnic communication is still modest. Situation with Estonian language proficiency is getting better. According to 1989 national census, only 15% of local ethnic Russian can speak Estonian language.²⁹ In 2000 this figure raised to 40%. The level of proficiency was

much higher among representatives of young generations (59% of persons aged 15-19).³⁰

Despite these positive changes one may argue that Russian-speakers have already utilized most of their personal recourses, and improvement of their knowledge of the official language will be limited in the near future. Under these circumstances unification of the Estonian society solely on the language basis is hardly possible.

Additionally, Russian may compete with other languages in Estonia even lacking an official status. It is the mother tongue of every third Estonian resident. Furthermore, in some places Russian dominates the linguistic milieu.

Table 4. Ethnicity, native language and citizenship of the population of Tallinn, Maardu and the biggest towns of the Ida-Viru County, 2000 national census, %³¹

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

C. Citizenship policies

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

- 1) be at least 15 years of age;
- 2) have stayed in Estonia on the basis of a permanent residence permit for at least five years prior to the date on which he or she submits an application for Estonian citizenship (not applicable to Soviet era residents) and for one year from the day following the date of registration of the application;
- 3) have knowledge of the Estonian language in accordance with the requirements provided for in the Law (see Annex III for details);
- 4) have knowledge of the Constitution of the Republic of Estonia and the Law on Citizenship in accordance with the requirements provided for in the Law (see Annex III for details);
- 5) have a permanent legal income which ensures his or her own subsistence and that of his or her dependants;
- 6) be loyal to the Estonian State;
- 7) take an oath: “In applying for Estonian citizenship, I swear to be loyal to the constitutional order of Estonia”.

The Law stipulates a simplified procedure for minors under 15 years of age whose parents are going to naturalize or have Estonian citizenship. Since 1999 stateless children of stateless parents can be naturalized according to the similar simplified procedure (See Chapter III of the Law). People born prior 1 January 1930 are exempted from written part of the language exam (Article 34). However, they should pass the written civic exam. Since 2001, any exam shall not be passed by disabled (Article 35). Ten persons per year may be naturalized without exams on the ground of “special merits” (Article 10). A person who received a diploma of an Estonian-language educational institution shall pass only the civic exam (Article 8 (5)).

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

Table 5. Naturalization in Estonia in 1992 - November 2003 ³²

Basis	Period	No	%
On general conditions (with a language certificate or diploma)	1992-	49,104	40
Minors under 15 years of age	1992-	23,902	19
For special merits	1992-	702	0.7
Aliens who has a certificate of supporting the pro-independence Congress of Estonian citizens (the so-called green card)	1992-95	24,102	19
Ethnic Estonians	1992-95	25,966	21
Disabled persons (without tests)	2001-	319	0.3
Total		124,095	100.0

In recent years the tempo of naturalization in Estonia was rather slow. The sharp decline in figures was registered after the adoption of the new Law on Citizenship in 1995. Three – four thousand naturalized persons per year could not be regarded as a satisfactory rate in a country where every fifth resident is a non-citizen.

Table 6. Annual naturalization in Estonia in 1992 - October 2003 ³³

Year	No	Year	No
1992	5,421	1998	9,969
1993	20,370	1992	4,534
1994	22,474	2000	3,425
1995	16,674	2001	3,090
1996	22,773	2002	4,091
1997	8,124	2003 (October)	3,150

Since 2000 the Estonian language tests for employees (for any official proficiency level) and the final school language exams (lowest and middle levels) were equated with the naturalization tests.³⁴ The average result of the test for the lowest proficiency level was quite high in 2002 and 2003 (See Table 13).

Since 1 January 2004 the state can reimburse up to 100% of the fee paid by a person to a private school holding an education license if he or she passed a language test and test on knowledge of the Constitution and the Law on Citizenship (Article 8¹ of the Law on Citizenship). Partial compensation of expenses for language training was also possible in the frame of several projects funded by the Integration Program in the previous years.³⁵

The 2000 national census provides us with the data on Estonian language proficiency of non-citizens. Thus, 19% of the Russian citizens, 32% of stateless persons and 38% of other countries citizens claimed that they can speak Estonian.³⁶ These figures make us raise a question why people with the language proficiency ignore the naturalization procedure. Additionally, it is useful to learn how many persons have mentioned that their poor command in Estonian is an obstacle for naturalization. According to the Integration Monitoring 2002, the Russian citizens and stateless people mentioned the following reasons for not having Estonian citizenship:

Table 7. For what reason have you personally not obtained citizenship yet? By citizenship, %³⁷

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

High language requirements, humiliating nature of the exams and absence of demanding practical necessities of naturalization were the most often mentioned

reasons in *all* age groups of non-citizens³⁸. 95% of stateless persons and 92% of Estonian citizen of non-Estonian origin mentioned their “wish to gain security to live in Estonia” answering the question “Why is it important for you personally to have/to obtain Estonian citizenship?”³⁹

According to the Integration Monitoring 2002, the attitudes of ethnic groups to Estonian citizenship policies were not the same. Eight per cent of Estonians in the age group 15-29 of y. o., 5% in the age group 30-49 of y. o. and 6% in the age group 50-74 of y. o. called them “rather rigid”. As for non-Estonians, this answer was given by more than 70% in all age groups.⁴⁰

SUMMARY OF PART ONE

- Non-citizens of Estonia are mostly people who arrived in Estonia after the WWII and their successors. Most of them are ethnic Russians and other Russian-speakers. The largest group of non-citizens is stateless people, followed by citizens of Russia.
- A large group of non-citizens in Estonia is a result of restitution approach toward citizenship after regaining independence in 1991. In 1992 non-citizens make up 32% of the total population. Due to migration, naturalization and natural reasons their percentage dropped to 20% in 2000.
- At the moment most of the non-citizens reside in Estonia on the basis of permanent residence permits. Soviet era residents do not enjoy a special status. The migration regiment stipulated for the EU member states citizens and their family members will be more liberal after May 2004 due to Estonian commitments in the EU accession process.
- The residence permit of a Soviet era resident may be revoked under the certain conditions.
- For years applications for residence permits of former Soviet/Russian military servicemen and Soviet security officers have resulted in temporary residence permits given them by way of exception. The same rules are valid for their spouses and minor children despite the date of matrimony.

- At least several thousands aliens reside in Estonia illegally. They are people that came/were born in Estonia before and after 1991. Expulsion procedure in Estonia is relatively simple.
- Ethnicity based privileges were established for Estonians as regards to annual migration quota and legalization procedure. The Soviet era residents are subjected to a similar preferential treatment.
- Integration of minority population including non-citizens has recently become an official policy. Integration shall take place on the basis of acquisition of Estonian language and citizenship. Integration funds are mostly allocated to a language training of non-Estonian-speakers.
- The level of Estonian language proficiency of non-Estonians remained at a low level. In some places the non-speakers constitute an overwhelming majority. It justifies doubts regarding universal integrative ability of Estonian language for the purposes of society integration or 'harmonization'.
- The naturalization procedure is normally based on the Estonian language and Constitution/Law on Citizenship exams. More than 120 thousand people did naturalize in 1992-2003. A considerable number among them constitute ethnic Estonians and minor children under 15 years of age. The majority of naturalized persons received citizenship without a language certificate or diploma of an Estonian-language educational institution.
- A recent sociological study revealed that the majority of both stateless people and the Russian citizens regard language requirements to be an obstacle to their naturalization. They also refer to naturalization requirements as to humiliating factor. While 55% of stateless people think that lack of citizenship does not hinder living in the country, 95% of them value Estonian citizenship as a means to gain security to live in Estonia.

PART TWO. NON-DISCRIMINATION, CIVIL AND POLITICAL RIGHTS

A. Equality and non-discrimination

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

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

The incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or discrimination between social strata shall, by law, also be prohibited and punishable.

Article 12 does not provide exhausted list of grounds for discrimination and formally provides protection against discrimination on the ground of citizenship. According to Article 9 of the Estonian Constitution, “[t]he rights, freedoms and duties of each and every person, as set out in the Constitution, shall be equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia.” Nevertheless, the Estonian Constitution permits a differential treatment of non-citizens in the certain fields of a social life (e.g. Article 28 (right for assistance from the state), Article 29 (freedom of profession), Article 31 (freedom of private enterprise), etc).

One may presume that non-Estonians have more experience of discrimination on the ground of the mother tongue and ethnic origin than on the ground of citizenship. A sociological study in Tallinn in 2001 proved that different status groups among minorities demonstrate similar attitudes towards the most controversial laws (Law on Citizenship, Law on Aliens, Law on Language, etc).⁴¹ Furthermore, the perception of the most important “social capital” differs among majority and minorities. During the same sociological study in Tallinn, 38.9% of Estonian and 16.9% of non-Estonian respondents claimed that Estonians’ overrepresentation in higher social positions can be explained by their citizenship. At the same time 44.2% of non-Estonians believe that the reason for unequal representation was Estonians’ ethnic origin.⁴²

There are no limits for non-citizens in access to free legal aid provided by the state in criminal, civil and administrative court procedure. The principle of equality before the court is explicitly stipulated in Article 13 of the Code of Criminal Procedure and Article 6 of the Code of Civil Procedure. Everyone has a right to address the pre-judicial bodies such as Legal Chancellor (ombudsman and anti-discrimination specialized body),⁴³ Labor Disputes Resolution Commission and National Labor Inspection.

Nowadays the Legal Chancellor deals with discrimination on the basis of sex, race, ethnic origin, color, language, origin, religious, political or other belief, property or social status, age, disability, sexual orientation or other ground of discrimination provided for in the law (Section 2 of Article 19 of the Law on Legal Chancellor). However, at the moment no act does include detailed provisions of substantive law in the field of non-discrimination. In the last draft of anti-discrimination legislation (draft no. 1198 SE⁴⁴) citizenship is not referred to as a banned ground of discrimination.

According to the Estonian scholar Anna Markina, the probability to receive a parole verdict was twice as high for Estonians than for non-Estonians.⁴⁵ According to the Ministry of Justice, in 2003 there were 3,059 convicted criminals in Estonia and minority members made up 60% of them. Non-citizens were also overrepresented in the prison population in 2003 when Estonian citizens make up 50.9%, stateless persons 43.5%, and other countries citizens 5.6%.⁴⁶ In the beginning of 2004 most of the foreign citizens in Estonian prisons were citizens of the Russian Federation. Estonian authorities have recently decided to intensify expulsion of foreign citizens – prisoners to the countries of their citizenship.⁴⁷

B. Respect for private and family life and home

In general there are no practices of unlawful interference with non-citizens' privacy, family, home, correspondence, etc. Most legal disputes over protection of non-citizens private and family life are related to the cases of family reunification and illegal aliens' expulsion.

In case of family reunification, the treatment of non-citizens is less favorable as compared with Estonian citizens. Thus, only non-citizens are subjected to “proving” of the fact that their family reunification in Estonia is justified (Article 12¹ (7) of the Law on Aliens):

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

In 2000, in the so-called Ushakova case⁴⁸ the State Court found that the application of quota to family reunification may under certain circumstances lead to violation of the right to family life. As a result, since 2002 an annual migration quota is not applicable to family reunification. However, the procedure of submission of relative applications was made more complicated. Furthermore, only an alien who has resided in Estonia for at least five years on the basis of a permanent residence permit may invite a spouse or close relative to settle in Estonia (Articles 12¹ and 12³).

In December 2002 the Riigikogu⁴⁹ amended the Law on Obligation to Leave and Prohibition on Entry⁵⁰. As a result family life in Estonia is not regarded anymore as a circumstance that guarantees the issuance of a precept to legalize to an illegal alien.

Since May 2003 the officials of the Citizenship and Migration Board and Labor Market Board received the right to enter with the permission a person’s dwelling for verification of the facts important for the issuance of a residence permit. Any alien any time should prove to state officials with a document that his or her stay or work in Estonia is on the legal basis. Furthermore, “the employer is required to provide officials of the Citizenship and Migration Board and police officers with immediate access to the workrooms, employees, data and documents pertaining to aliens employed by the employer” (Article 15¹ of the Law on Aliens).

C. Political participation and public service

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

As for the local elections, Estonian citizens (and citizens of the European Union after the accession) who have attained 18 years of age by election day and whose permanent residence is located in the corresponding municipality have the right to vote. If they are registered in the corresponding municipality before 1 August of the year of elections, they can also stand as candidates (Article 5 of the Law on Local Government Council Election).

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

Table 8. Population of Tallinn, Maardu and the biggest towns of the Ida-Viru County by citizenship, 2000 national census, %⁵¹

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

Language requirements for a candidate at national and local elections were abolished in Estonia in 2001. However, at the moment Estonian is the only official working language in all local self-governments and their councils.

At 1993 and 1996 local elections non-citizens were obliged to follow a preliminary registration procedure to take part in voting. For former Soviet residents it was possible to vote with temporary residence permits till the 1999 local election. The participation rate of non-citizens at different local elections was not stable.

Table 9. Participation rate of citizens and non-citizens at local elections in Estonia, %⁵²

Local Elections	Citizens	Non-citizens	Total
1993	Not available	Not available	52,7
1996	49.7	85.0	52.6
1999	50.6	43.2	49.2
2002	Not available	Not available	52.5

Citizens of a foreign state may use an opportunity to take part in parliament elections in the country of their citizenship through diplomatic representations. In 2003, 16,581 Russian citizens resided in Estonia took part in the election of the State Duma.⁵³

According to the Law on Public Meetings, an organizer of a public meeting shall be an Estonian citizen or an alien with the permanent residence permit (Article 6(4)).

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

The Estonian Constitution permits aliens to be public officials in exceptional cases “in accordance with law” (Article 30). At the moment such an opportunity is not foreseen in the Law on Public Service (Article 169). The last non-citizens had been discharged from public service by 1 January 2004.

According to the Integration Monitoring 2002, stateless persons did give a low priority to different aspects of participation in political life in the list of reasons to obtain Estonian citizenship. Citizenship was important in order to obtain franchise at Riigikogu elections for 39% of them, followed by the wish to obtain franchise at local elections (33%), possibility to get a job in a state institution (27%) and possibility to become successful in political and public life (4%). It is worth mentioning that respective figures for Estonian citizens of non-Estonian origin were somehow higher.⁵⁴

This modest interest towards political participation may have different explanations. The use of the minority language in public sphere and public education, problems of mass-statelessness, economic difficulties in the predominantly 'Russian' Ida-Viru County were normally addressed to by the so-called ethnic Russian parties. However, at the last local (2002) and national (2003) elections these parties gained negligible support. One of the main reasons for their poor result is low efficiency of these parties that have always occupied margins of local and national political life. At the same, at the last elections a recent tendency of the Estonian mainstream parties to work actively with Russian-speaking electorate has awarded them with non-Estonians' support in spite of the causal and fragmented coverage of the most challenging minority problems in programs and electoral platforms of these parties. At the last local election in Tallinn every fourth candidate in the electoral lists of the two leading mainstream parties was a person with a non-Estonian name.⁵⁵

It is also worth mentioning that few foreigners in Estonia were involved into radical political activities. For instance, on 20 October 1997 before the parliament building in Tallinn and in some other places 300-400 Russian-language pensioners from Tallinn and the Ida-Viru County held an unsanctioned picket. Many of them protested against social policies of the government. However, there were also posters "We demand for rights and freedoms to Russians!" "Nuremberg-2 for Estonian political pro-fascist regime!" "Stop Baltic apartheid!" etc. The organizers of the picket were representatives of the unregistered Tallinn and Narva Unions of Russian Citizens and activists of the Sillamäe Pensioners' Union (SPU). All organizers were accused of incitement of racial and political hatred. The Security Police made also searches in the

premises of SPU and at SPU leader's place. Finally, all the accused were pleaded not guilty by the Estonian courts in 2000.⁵⁶

Representatives of these groups were well-known for their radical statements as well. For instance, in 1998 an activist of the Tallinn Union of Russian Citizens Oleg Morozov claimed that he regards the Estonian Republic as an illegal entity. "I cannot agree that one community has conquered all the power and that it can dictate its conditions to all other local ethnic nationalities".⁵⁷ For ideological reasons he denied applying for a *temporary* residence permit. He demanded a *permanent* residence permit stating that he was born in Estonia. In 1999 for the breach of migration regime Morozov spent 20 nights in administrative detention where he started a hunger-strike.⁵⁸

In fact the so-called political radicalism of non-citizens does not have much public support. It based on denial to recognize recent political changes, the legitimacy of the regime and justification for actual ethnic policies of the Estonian State. Nevertheless, it seems to be that such activities are taken very seriously by the authorities. According to Article 233 of the new Penal Code of Estonia (valid since 1 September 2002), "[a]n alien who engages in non-violent activities directed against the independence and sovereignty of the Republic of Estonia ... shall be punished by 2 to 10 years' imprisonment". This provision of the Penal Code is not precise enough to avoid arbitrariness of the officials who may use it against 'disturbing non-citizens'.

As for lack of non-citizens' interest to public service, it also deserves our attention. If we look at the figures regarding occupation of different ethnic groups in public administration and defense, the percentage of minorities in this branch of economy will correspond to their share in the Estonian citizenry⁵⁹. It is a well known fact, that minorities have a good position in the Northern-Eastern officialdom. Nevertheless, the data for senior government officials is far from equal representation and it cannot be explained by civil status or Estonian language proficiency of minority members.

Table 10. Estonians and Russians among legislators and senior government officials, 2000 national census, %⁶⁰

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

During the Integration Monitoring 2002 Estonian respondents were asked the question about what should be a ‘proper representation’ of the large non-Estonian population in various government institutions and offices. The majority of Estonians preferred the exclusive options: the proportion “1/10 or less” or “no need [of them] at all” for Riigikogu (respectfully 40% and 21%), government (28 and 36%), local government (31 and 25%), executive bodies of state-owned enterprises (32 and 21%). It seems to be that prevailing attitudes of the ethnic majority may influence non-citizens’ motivation to choose for Estonian citizenship in order to be involved into political activities and to get a job in a public office.⁶¹

D. Freedom of religion and freedom of expression

Article 40 of the Estonian Constitution proclaims freedom of conscience, religion and thought. Additionally, “[e]veryone has the right to freely disseminate ideas, opinions, beliefs and other information by word, print, picture or other means” (Article 45).

In general, non-citizens’ freedom of consciousness and religion is observed in Estonia. The discrimination on the ground of religious affiliation is not known to the public.

According to the 2000 national census, minority members are more religious than ethnic majority. Thus, among ethnic Estonians only 24% are the followers of a

particular faith and most of them (80%) are Lutherans. However, 39% of ethnic Russians are followers of a particular faith and most of them (92%) are Orthodox Christians. In general, 14.8% of the total Estonian population belongs to Lutheran Church and 13.9% to Orthodox Church.⁶²

After the October Revolution in Russia, the local Estonian Orthodox Church, which was a part of the Russian Orthodox Church, received an autonomous status. In 1923 the local church authorities changed the canonical subordination of the local church from Moscow to Constantinople Patriarchate. Moscow Patriarchate restored its rights when Estonia became the part of the USSR. However, after 1991 the local Orthodox Church subordinated to the Moscow Patriarchate and survived communist repression was not recognized as a legal successor of the pre-war church structure. This status was awarded to a group of religious people that fled to the West during the WWII and preserved their subordination to the Constantinople Patriarchate. They *de jure* received almost all the church property that *de facto* was and is still in possession of pro-Moscow parishes.

According to estimations of the churches leaders, Constantinople is supported by ca 20 thousand Orthodox believers, while Moscow by 200 thousand believers.⁶³ These two Orthodox Churches are divided along ethnic lines. Despite the fact that the Estonian Orthodox Church of Moscow Patriarchate was finally officially registered in 2002 (formally for the first time in the history of the Republic of Estonia), the problems regarding use of property remained unsolved. These circumstances cannot be regarded as favorable for profession of religion by the majority of non-citizens. However, the certain positive changes have recently been made in this field and all parties involved are obviously ready for compromises.

As for freedom of expression, certain rules regarding public use of languages ought to be altered as inconsistent with international standards. Under the Law on Language (Article 23), [p]ublic signs, signposts, announcements, notices and advertisements “shall be in Estonian” meaning “only in Estonian”. Exceptions to this rule are possible in the interests of foreign diplomats and tourists. Other exceptions enlisted in the Law cannot be used in practice. However, in recent years the Language Inspectorate employs more tolerant approach towards bilingual public signs and advertising.

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

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

E. Right to citizenship

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

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

For a long time Estonian authorities tended to ignore this status. Quite often it was declared that these people were not stateless because they were entitled for citizenship of the Russian Federation - a legal successor of the USSR. In the first Alien's

passports “FSU” (acronym for “Former Soviet Union”) was written in the entry “citizenship”. At the moment this entry is filled in with the term “undetermined”.

While every tenth Estonian resident is stateless, Estonia does not sign nor ratify the UN Convention on Reduction of Statelessness (1961). The absence of citizenship is normally understood as a problem of a concrete person, not state. Furthermore, measures to promote linguistic ‘harmonization’ of the society have always had a priority over all other minority policies. As a result, serious changes regarding linguistic requirements in the naturalization procedure (which may efficiency solve the problem of mass-statelessness) are hardly realistic without challenging the ideological consensus of the Estonian Establishment.

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

A minor under 15 years of age who was born in Estonia after 26 February 1992 shall acquire Estonian citizenship by naturalization if:

- 1) his or her parents apply for Estonian citizenship for him or her and if the parents have legally resided in Estonia for at least five years at the time of submission of the application and are not deemed by any other state to be citizens of that state on the basis of any Law in force;
- 2) single or adoptive parent applies for Estonian citizenship for the minor and if the single or adoptive parent has legally resided in Estonia for at least five years at the time of submission of the application and is not deemed by any other state to be a citizen of that state on the basis of any law in force.

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

Convention (“For the purposes of the present Convention, a child means every human being below the age of eighteen years...”).

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

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

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

Former military serviceman can receive the citizenship only if he or she has been married for at least 5 years to a person that acquired Estonian citizenship by birth (Article 21 (2)). The discrimination of citizens by naturalization by this particular legal clause was unsuccessfully protested against in the Estonian court. The stateless Estonian resident Vjacheslav Borzov (married an Estonian citizen by naturalization) filed a complaint against this rule in the UN Human Right Committee. The initial consideration of this complaint has been listed at the Committee 80th session in March 2004.⁶⁴

The Law on Citizenship explicitly requires that a naturalized person shall be loyal to Estonia (Article 6). In 2003 a young person was denied Estonian citizenship after the

interference of the Security Police. Statements on his web-page were characterized by the authorities as offensive for the Republic of Estonia.⁶⁵

According to the Estonian Constitution (Article 8), no one can be deprived of citizenship acquired by birth. This principle is also incorporated into the Law on Citizenship (Article 5 (3)). However, a naturalized person may be deprived of Estonian citizenship if he or she forcibly attempts to change the constitutional order of Estonia, joins foreign military or intelligence service, etc. In fact, a citizenship shall be deprived even if it results in person's statelessness. The deprivation of the citizenship shall be executed by the order of the Government (not court decision). It is banned to deprive the citizenship solely because of person's belief (Article 28).

SUMMARY OF PART TWO

- Generally, non-citizens enjoy protection against discrimination. However, in certain areas differential treatment of citizens and non-citizens is permitted.
- Non-citizens and citizens are equal before law. However, non-citizens (as well as minorities) are overrepresented in prison population and underrepresented among those received parole verdict.
- Generally, non-citizens private and family life and home are protected. However, on the basis of most recent legal acts state officials received a better opportunity to control the implementation of migration rules at non-citizens' home, work and in public places.
- Non-citizens' right to family reunification is observed to the less degree as compared with citizens.
- Non-citizens have active suffrage and they have not passive suffrage at local elections. However, citizens of the EU member states will be acquitted at local elections with Estonian citizens after May 2004. Non-citizens cannot be members of political parties.
- The interest of non-citizens towards Estonian citizenship as a tool to participate in political life is relatively low. It may be partly explained by actual political situation and general attitudes in the society. Additionally, citizens of minority origin are underrepresented among senior government officials.

- Political radicalism of non-citizens can be easier prosecuted on the basis of the new Penal Code.
- Non-citizens (as well as minorities) are more religious. They normally belong to the Estonian Orthodox Church of Moscow Patriarchate. This church has a long-lasting conflict over use of church property after it received denial to be registered as a legal successor of the pre-WWII church structure.
- There are certain limits on public use of languages other than Estonian. According to the Law on Language all public signs, advertisements etc should be in Estonian. Practical implementation of this rule is more liberal, however. There are some limits on use of foreign and minority languages on TV as well.
- Estonia does not sign nor ratify the UN Convention on Reduction of Statelessness (1961).
- The right to citizenship (nationality) as such is recognized only for some stateless children under the age of 15.
- Certain categories of aliens (including former Soviet security officers and military servicemen) are deprived of the right to naturalize. The same restrictions are valid for spouses that followed military servicemen to settle in Estonia. Only citizens by birth can 'provide' their spouses – former military servicemen with a right to naturalize.
- Citizens by naturalization may be deprived of Estonian citizenship, not citizens by birth. Deprivation of the citizenship may result in person's statelessness.

PART THREE. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A. Background information

Under the Estonian circumstances it is not easy to make a distinction between social-economical situation of minorities and non-citizens since both groups are overlapping. Additionally, citizens of minority origin are normally persons with more social capital and mobility which contribute to their efficiency on the labor market. Certain differences between status groups of non-citizens (Russian citizens, stateless people and citizens of other states) may be explained by peculiarities of their age and educational structure. Thus, members of older generations are overrepresented among the Russian citizens. There are slightly more persons with advanced levels of education among the citizens of Russia and other countries compared with Estonian citizens. At the same time stateless people are somehow younger and therefore their educational resources are more modest. One may presume that in recent years this group lost a considerable number of educated or studying persons due to immigration and naturalization.

Table 11. Age structure of different status groups in Estonia, 2000 national census, %⁶⁶

Status group	Age group (years old)		
	... - 29	30-59	60 - ...
Estonian citizens	41	39	20
... including citizens of non-Estonian ethnic origin	39	44	17
Russian citizens	18	40	42
Citizens of other countries	26	52	22
Stateless persons	40	45	15
All Estonian population	40	39	21

Table 12. Different status groups in Estonia by education attained, persons aged 10 and older, 2000 national census, % ⁶⁷

Status group	Educational level						
	higher	professional secondary	secondary	basic	primary	no primary	unknown
Estonian citizens	13	17	29	20	13	7	1
Russian citizens	14	21	29	17	12	4	3
Citizens of other countries	17	20	32	13	9	4	5
Stateless	8	20	34	17	11	7	3

B. Access to employment

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

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

Non-citizens cannot work as state and municipal officials. However, they can be employed as non-officials for auxiliary services in state and municipal institutions. Estonian law additionally introduces a citizenship requirement for certain non-official positions. For instance, a non-citizen cannot be a rector of a public funded applied higher institution, a bodyguard, etc.⁶⁸

In Estonia the detailed requirements of the Estonian language proficiency are established for the labor market. Due to international interference, these requirements have recently been made more precise in scope and balanced in approach. According to Article 2¹ (2) of the Law on Language, linguistic requirements in the private sphere shall be introduced in the public interest, which means “public safety, public order, general government, public health, health protection, consumer protection and occupational safety”. Knowledge and use of the minority language in the places where minorities are present in big numbers is not officially demanded in the public interest.

Persons who did not graduate from Estonian-language educational institutions may be asked to demonstrate a special proficiency certificate. This document may be issued only after a special exam where an authorized commission has checked person’s oral, and written skills in Estonian. At the moment there are three levels of proficiency (Articles 5 and 5¹). The two highest levels seemed to be an obstacle for many non-Estonian speakers (see Table 13). The requirements for proficiency in Estonian language do not apply to persons who work in Estonia temporarily as foreign experts or foreign specialists (Article 5 (6)).

Table 13. Percentage of persons who successfully passed the proficiency level tests in 2002 and 2003, % of participated in the tests ⁶⁹

Level	2002	2003
Lowest	74	77
Middle	52	59
Highest	55	63

In public domain everyone (both officials and non-officials) should know the language at one of the required levels and have a certificate (if appropriate). Thus, these requirements are applied to both a cleaner at ministry (lowest level) and a teacher of Russian language at municipal school (middle level). In private domain the requirements were established for persons working in the sphere of trade and service, medicine and pharmacy, public transport, etc.⁷⁰

As far as non-citizens and (minorities in general) have relatively low proficiency in Estonian, these rules have considerably limited their employment opportunities while their implementation in practice is carefully monitored by the Language Inspectorate.

Nevertheless, non-citizens (minority members) complications on the labor market cannot be explained solely by their poor Estonian language. Estonia still witnesses ethnic divisions on the labor market which were preserved from the Soviet period. Furthermore, the recent market reforms have undermined the branches of economy where minorities were employed. The logic of social changes and official policies has pushed minority members to the lower carrier positions and to the lower wages quintile.⁷¹ In recent years unemployment is normally two times higher among non-Estonians compared with Estonians. According to the 2000 national census, unemployment among Estonians was 11%, among Russians 19% and among other ethnic groups 16%. The overrepresentation of minorities among unemployed can be seen in different educational groups, especially among persons with advanced levels of education.

Table 14. Unemployment rate among persons with the highest and lowest levels of education, by ethnic origin, persons aged 15 and older, 2000 national census, %⁷²

	Higher education	No vocational or professional education
Estonians	3	16
Russians	10	25
Others	9	20

Unemployment among non-citizens only reflects the situation of minority population. According to the 2000 national census,⁷³ unemployment among different status groups was the following:

Estonian citizens –	12%
Russian citizens –	20%
Citizens of other countries –	14%
Stateless persons –	22%

The differences among average salaries of Estonians and non-Estonians can demonstrate the data of the Estonian Labor Force Survey:

Table 15. Average salary per month in Tallinn by occupation and ethnic origin, 1999, Estonian cronos⁷⁴

Occupation	Total	Estonians	Non-Estonians	Non-Estonians, % of salary of Estonians
Legislators, senior officials, managers	5923	6783	4485	66.1
Professionals	4037	4384	3193	72.8
Technicians and associate professionals	3670	3872	2933	75.7
Clerks	3128	3485	2449	70.3
Service workers, shop workers	2394	3116	1839	59.0
Craft and related trade workers	3045	3346	2848	85.1
Plant and machine operators and assemblers	3073	3234	2986	92.3
Elementary occupations	1961	2165	1897	87.6

C. Access to social benefits

In most cases non-citizens enjoy the same free access to social benefits as Estonian citizens. Estonian citizens as well as aliens with any type of residence permit are subjects of the Law on Social Protection (Article 4), Law on Social Protection of Unemployed (Article 2), Law on Social Protection of Disabled (Article 3), Law on State Pension Insurance (Article 4), Law on State Support for Families (Article 2), etc. Provisions of the first three laws are also applied to refugees.

At the moment all services provided for in the Law on Employment Service are available only to citizens, aliens with permanent residence permit and refugees (Article 5). Aliens with temporary residence permits (including Soviet era residents who failed to receive permanent permits for different reasons) can use only two basic services: 1) informing of the situation in the labor market and of the possibilities of employment training, and 2) employment mediation.

According to the Estonian-Russian July Accord (1994) medical services provided to non-working former Soviet/Russian military servicemen shall be paid by the Russian Federation (Article 9).

D. Property rights

In general, aliens may peacefully enjoy their property rights in Estonia. However, there are a few restrictions established for sale and possession of weapons according to the Law on Weapons.

According to the Law on Restrictions on Transfer of Immovable Property Ownership, ownership of a plot of agricultural or forest land whose size is more than 10 hectares may be normally transferred to an alien only with permission of the county governor (Article 2). Without a special governmental permission an alien who is not a citizen of the European Economic Area cannot buy immovable property on islands (except for the four biggest islands) and in territorial units close to the state boarder (Article 3). Cases of succession, transfer of the property to a spouse and relative, etc. are not covered by the Law (Article 1).

While the adoption of these restrictions can be justified for security interests, a considerable number of non-citizens reside in the Estonian boarder region and their rights are limited by these provisions. Thus, only in Narva, Narva-Jõesuu and Sillamäe (which are covered by the Law) reside ca 59 thousand non-citizens (more than 4 % of all Estonian population).⁷⁵

E. Minority status

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

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

Therefore, the majority of non-citizens are officially excluded from the definition. It is worth mentioning, however, that the Law entitled non-citizens with the right to participate in the activities of cultural autonomies.

The Law enumerates basic rights of minority members. Furthermore, it stipulates the procedure and rules for foundation of cultural autonomies which are supposed to maintain the system of minority educational and cultural organizations. Cultural autonomies may be founded by Germans, Russians, Swedes, Jews or by three thousand Estonian citizens of other minority origin (Articles 1 and 2 (2)). No cultural autonomy was founded in Estonia since 1993. The possible reasons for it are clumsy procedure of foundation, lack of positive obligation of the state to finance the work of minority cultural and educational institutions and (last but not least) citizenship criteria.

The same definition of the national minority was given in the declaration that Estonia made upon the ratification of the Framework Convention for the Protection of National Minorities. However, in its Opinion on Estonia Advisory Committee of the Framework Convention addresses the problems of both citizens and non-citizens of minority ethnic origin.⁷⁶

At the moment restrictive definition of the national minority have little practical effect. Monoethnic Estonian households make up only 65% of all households in the country.⁷⁷ 99% of ethnic Estonians have Estonian citizenship.⁷⁸ 75% of all households consist only of Estonian citizens, 13% only of non-citizens, 12% of both citizens and non-citizens. In other words, there is a considerable number of minority families that consist of both citizens and non-citizens.⁷⁹ Formally, members of such families are not equal in their access to minority rights.

Nevertheless, this differentiation is impossible in practice. Citizens and non-citizens do not have any separate cultural or educational institutions and organizations. However, lack of official recognition may promote alienation of non-citizens and other minority members from the Estonian State and society.

F. Education

Educational rights of non-citizens cannot be examined separately from minority educational rights. Before 1991 it was possible to receive education in Estonian or Russian at all levels in Estonia. After the country regained independence, the opportunities of studying in Russian have been shrinking. At the moment, the public funded higher education institutions organize studies only in Estonian with few expectations for certain groups. Young people without good Estonian language may continue studies in 'Russian' higher education institutions which are private. However, these institutions do not normally have accredited programs of master and doctor studies.

In spite of the fact that minority population is in general well educated, its young representatives are underrepresented among students of higher educational institutions. Thus, 9% of Estonians in the age group 15-19 of y. o., 27 % in the age

group of 20-24 y. o. and 9% in the age group of 25-29 y. o. are studying in the higher education institutions. For non-Estonians the relevant figures are 9%, 18%, and 5%.⁸⁰ The differences are even more evident at the level of master and doctoral studies.

Table 16. Estonians and non-Estonians studying on the basis of master and doctor programs, 2000 national census⁸¹

Age group	Master program				Doctor program				Share in the age group	
	E*		NE*		E*		NE*		E*	NE*
20-24	648	79%	175	21%	24	69%	11	31%	69%	31%
25-29	1152	90%	125	10%	346	87%	53	13%	71%	29%
30-34	515	92%	43	8%	252	92%	21	8%	71%	29%

* E - Estonians, NE - non-Estonians

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

Some non-Estonians decided to send their children to Estonian-language schools while many non-Russian minorities continue sending their children to Russian-language schools. At the moment under certain circumstances these children have a right to lessons of mother tongue and culture in publicly funded schools (Article 9 (3)).

G. Official use of the minority language

Russian is the first language of the majority of non-citizens and minority members. Estonian legislation provides non-Estonian speakers with certain guarantees concerning official use of the minority language.

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

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

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

Constitution (Article 52) and Law on Language (Article 11) foresee the possibility to use the minority language as a second official language “in local self-governments where the majority of permanent residents are non-Estonian speakers”. However, no local self-government received permission for bilingual work from the national Government according to the established procedure. As a result local authorities shall not append the Russian translation of official invitations, announcements and notices (Article 13). In practice, however, Russian is widely used for official informing in the predominantly ‘Russian’ self-governments.

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

There is no ban on using minority or foreign language in Estonian courts. In most cases, however, the requirement of interpretation or translation into Estonian will be applied (Code of Criminal Procedure (Article 16), Code of Civil Procedure (Article 7)).

SUMMARY OF PART THREE

- Educational level of non-citizens of different status groups is close to the level of Estonian citizens. As for age structure, representatives of the older generations are overrepresented among Russian citizens.
- Non-citizens with temporary residence permits should have work permits. It is possible to come to Estonia for work but the procedure is complicated. Most of Soviet era residents do not need work permits because of the special legal provision.
- Non-citizens cannot work in public office and in some other positions. For all positions in public domain and for many positions in private domain the law requires a certificate of Estonian language proficiency (if person did not graduate from Estonian-language education institution).
- Unemployment rate among non-citizens is 1.5-2 times higher comparing with Estonian citizens. It reflects the social-economic inequality between ethnic minorities and majority in the country.
- In fact, Estonian citizens and non-citizens have equal access to most social benefits and services. Certain exceptions are valid for aliens with temporary residence permits.
- Non-citizens can peacefully enjoy their property rights. However, a few restrictions are employed for their transactions with immobile property and weapons.
- Non-citizens are not officially recognized in Estonia as national minority members. However, it has little practical importance under the circumstances when a core legal act on minorities has never been implemented in practice. Citizens and non-citizens of minority origin participate in the same cultural activities and in education without real differentiation.
- In spite of a high educational level of minority population (and non-citizens), young minority representatives are underrepresented in higher education institutions in Estonia. Public funded colleges and universities operate in Estonian with few exceptions. At the moment minority members still enjoy publicly funded secondary level education in Russian. However, since 2007

minority upper secondary schools will start transition to Estonian as a main means of instruction.

- There is a limited opportunity to use the minority language for official purposes in Estonia.

RECOMMENDATIONS

The overwhelming majority of all Estonian non-citizens are persons who resided in the country before restoration of independence in 1991. They have stable links with the country of residence. These people became stateless or foreign citizens because of the restrictive approach of the Estonian State to the problem of their naturalization. At the same time, these people do not have special status and enjoy few privileges in the field of migration law. Their right to stay in Estonia may be revised.

We recommend providing non-citizens who resided in Estonia from the Soviet period with a special status that will ensure their right of permanent stay in the territory of Estonia without revisions.

Former Soviet/Russian military servicemen and security officers are entitled only for temporary residence permits. The same rule is applied to their family members. After 12 years of independence and regular checks of applicants on the individual basis these restrictions shall be regarded as disproportionately severe and unjustified.

We recommend granting former Soviet/Russian military servicemen and security officers the right to apply for a permanent residence permit.

The rate of political participation of non-citizens is low. They pay little interest to political life. Non-citizens cannot be candidates at local elections while EU citizens will get this right after May 2004. Non-citizens cannot be members of political parties.

We recommend granting all resident non-citizens the right to be candidates at local elections.

The role of the official language in the process of society 'harmonization' and integration is overestimated by Estonian policymakers. Naturalization requirements (which are normally based on language exam) are regarded as tough and humiliating

by the majority of non-citizens. Optimization of the naturalization procedure without changes of its requirements would presumably have little effect.

We recommend paying more attention to political and social-economic integration of non-citizens and other minorities in Estonia. Naturalization of non-citizens (residents from the Soviet period) shall be as simple as possible and may not include a language exam.

Employment opportunities of non-citizens on the labor market are restricted due to dramatic changes in Estonian economy. Minority members as well as all groups of non-citizens are overrepresented among unemployed. Language regulations put additional obstacles to non-citizens' full employment. The requirements of Estonian language proficiency may be justified in some spheres of economic activities. However, valid regulations hardly take into account personal abilities of non-Estonian speakers and almost totally ignore regional approach to the problem.

We recommend monitoring the official linguistic policies in order to protect non-citizens and other minorities from unfounded and disproportionate control over use of languages at work and in public places.

Non-citizens are not recognized as national minority members. This has little influence on the work of minority cultural and educational organizations. However, it promotes alienation of non-citizens from the Estonian State and society. Educational and linguistic rights of non-citizens and other minority members are limited by several controversial legal provisions.

We recommend recognizing all resident non-Estonians as minority members and promoting their educational and linguistic rights in conformity with the most advanced international standards.

REFERENCES

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- 3 RT 1992, 7, 109.
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- 30 Census II, Table 48.
- 31 Census II, Tables 12 and 15.
- 32 CMB Yearbook, p. 13.
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- 34 Governmental regulation no. 219 of 30 June 2000 (RT I 2000, 54, 567) and Regulation of the Minister of Education no. 5 of 2 March 2000 (published RTL 2000, 32, 425).
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- 37 Klara Hallik (ed.), *Integration of Estonian Society: Monitoring 2002*, Tallinn: Institute of International and Social Studies and Integration Foundation, 2002, p. 62 (hereinafter Monitoring 2002).
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- 39 Monitoring 2002, p. 63.
- 40 Report 2002, p. 85.
- 41 Aleskei Semjonov (ed.), *Integraciya v Talline 2001 (Integration in Tallinn 2001)*, Tallinn: LICHR, 2002, p. 54.
- 42 Ibid, p. 89.
- 43 Law on Legal Chancellor (Article 19).
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- 78 Census II, Table 39.
- 79 Census VI, Table 7.
- 80 Data for persons aged 3 and older. Census IV, Tables 55, 79 and 80.
- 81 Census IV, Tables 79 and 55.

ANNEX I.

Index of the Estonian Laws Referred to in the Report

English version of the title of the legal act	Estonian (original) title of the legal act	References to the official State Gazettes
Code of Civil Procedure	<i>Tsiviilkohtumenetluse seadustik</i>	RT I 1998, 43/45, 666
Code of Criminal Procedure	<i>Kriminaalmenetluse koodeks</i>	ENSV ÕT 1961, 1, 4 and lisa, consolidated text RT I 2000, 56, 369
Constitution of the Republic of Estonia	<i>Eesti Vabariigi põhiseadus</i>	RT 1992, 26, 349
Law on Aliens	<i>Välismaalaste seadus</i>	RT I 1993, 44, 637, consolidated text RT I 1999, 50, 548
Law on Applied Higher Institution	<i>Rakenduskõrgkooli seadus</i>	RTI 1998, 61, 980
Law on Basic School and Upper Secondary School	<i>Põhikooli- ja Gümnaasiumiseadus</i>	RT I 1993, 63, 892, consolidated text RT I 1999, 42, 497
Law on Citizenship	<i>Kodakondsuse seadus</i>	RT I 1995, 12, 122
Law on Citizen of the European Union	<i>Euroopa Liidu kodaniku seadus</i>	RT I 2002, 102, 599
Law on Consular Services	<i>Konsulaarseadus</i>	RT I 2003, 78, 527
Law on Cultural Autonomy of National Minorities	<i>Vähemusrahvuse kultuuriautonomiamiseadus</i>	RT I 1993, 71, 1001
Law on European Parliament Election	<i>Euroopa Parlamendi valimise seadus</i>	RT I 2003, 4, 22
Law on Employment Service	<i>Tööturuteenuse seadus</i>	RT I 2000, 57, 370
Law on Guard Service	<i>Turvateenistuse seadus</i>	RT I 1993, 75, 1100
Law on Language	<i>Keeleseadus</i>	RT I 1995, 23, 334
Law on Legal Chancellor	<i>Õiguskantsleri seadus</i>	RT I 1999, 29, 406
Law on Local Government Council Election	<i>Kohaliku omavalitsuse volikogu valimise seadus</i>	RT I 2002, 36, 220
Law on Non-Profit Organizations	<i>Mittetulundusühingute seadus</i>	RT I 1996, 42, 811, consolidated text RT I 1998, 96, 1515
Law on Obligation to Leave and Prohibition on Entry	<i>Väljasõidukohustuse ja sissesõidukeelu seadus</i>	RT I 1998, 98/99, 1575, consolidated text RT I 2001, 68, 407
Law on Public Meetings	<i>Avaliku koosoleku seadus</i>	RT I 1997, 30, 472
Law on Public Service	<i>Avaliku teenistuse seadus</i>	RT I 1995, 16, 228; consolidated text RT I 1999, 7, 112
Law on Restrictions on Transfer of Immovable Property Ownership	<i>Kinnisasja omandamise kitsendamise seadus</i>	RT I 2003, 23, 145
Law on Riigikogu Election	<i>Riigikogu valimise seadus</i>	RT I 2002, 57, 355
Law on Social Protection	<i>Sotsiaalhoolekande seadus</i>	RT I 1995, 21, 323, consolidated text RT I 2001, 98, 617

Law on Social Protection of Disabled	<i>Puuetega inimeste sotsiaaltoetuste seadus</i>	RT I 1999, 16, 273, consolidated text RT I 2002, 39, 245
Law on Social Protection of Unemployed	<i>Töötu sotsiaalse kaitse seadus</i>	RT I 2000, 57, 371
Law on State Pension Insurance	<i>Riikliku pensionikindlustuse seadus</i>	RT I 2001, 100, 648
Law on State Support for Families	<i>Riiklike peretoetuste seadus</i>	RT I 2001, 95, 587
Law on Weapons	<i>Relvaseadus</i>	RT I 2001, 65, 377
Penal Code	<i>Karistusseadustik</i>	RT I 2001, 61, 364, consolidated text RT I 2002, 86, 504

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

ANNEX II

Persons that cannot receive or extend a residence permit in Estonia

The Law on Aliens reads as following:

“Article 12. Bases for issue of residence permits

...

(4) A residence permit shall not be issued to or extended for an alien if:

- 1) he or she has submitted false information (including information concerning his or her earlier activities) upon application for a visa, residence permit or work permit or upon application for extension thereof;
- 2) he or she does not observe the constitutional order and laws of Estonia;
- 3) his or her activities have been or are or there is good reason to believe that such activities have been or are directed against the Estonian State and its security;
- 4) he or she has incited or incites, or there is good reason to believe that he or she has incited or incites racial, religious or political hatred or violence;
- 5) he or she has committed a criminal offence for which he or she has been sentenced to imprisonment for a term of more than one year and his or her criminal record has neither expired nor been expunged, or the information concerning the punishment has not been expunged from the punishment register;
- 6) he or she is in the active service of the armed forces of a foreign state;
- 7) he or she has served as a professional member of the armed forces of a foreign state or has been assigned to the reserve forces thereof or has retired therefrom;
- 8) he or she has been repeatedly punished pursuant to criminal procedure for an intentionally committed criminal offence;

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- 9) there is information or good reason to believe that he or she belongs to a criminal organization, that he or she is connected with the illegal conveyance of narcotics, psychotropic substances or persons across the border, that he or she is a member of a terrorist organization or has committed an act of terrorism, or that he or she is involved in money laundering;
 - 10) he or she is or there is good reason to believe that he or she is employed by an intelligence or security service of a foreign state, or he or she has or there is good reason to believe that he or she has been employed by an intelligence or security service of a foreign state, and his or her age, rank or other circumstances do not preclude his or her conscription into service in the security forces or armed forces or other armed units of his or her country of citizenship;
 - 11) he or she has received or there is good reason to believe that he or she has received special training in landing operations, or in diversion or sabotage activities, or other special training, and if the knowledge and skills acquired in the process of such training can be directly applied in the formation or training of illegal armed units;
 - 12) he or she has or there is good reason to believe that he or she has participated in punitive operations against civil population;
 - 13) there is good reason to believe that he or she has committed a crime against humanity or a war crime;
 - 14) he or she is the spouse or a minor child of a person specified in clauses 6), 7), 10), 11) or 12) of this Article;
 - 15) prohibition on entry applies to him or her.

(5) As an exception, temporary residence permits may be issued to aliens listed in clauses (4) 5)–8) and 14) of this Article and such residence permits may be extended if the circumstances specified in clauses (4) 1)–4), 9)–13) or 15) of this Article have not been ascertained with regard to such aliens.

(6) The circumstances listed in clauses (4) 1)–4), 6) and 8)–13) of this Article shall be considered as a threat to the security of the Estonian State.

(7) Clauses (4) 6), 7) and 10) of this Article do not extend to citizens of the member states of the European Union or NATO and clause (4) 14) of this Article does not extend to the spouses or minor children of such citizens.

(8) Issue of a residence permit shall be refused if the immigration quota has been fulfilled by the time a decision in respect of the application is made.”

ANNEX III

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

The Law on Citizenship reads as following:

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

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

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

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

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

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

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

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

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

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

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

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

ANNEX IV

Persons that cannot receive Estonian citizenship

The Law on Citizenship reads as following

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

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

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

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

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