

# ECRI

European Commission against Racism and Intolerance  
Commission européenne contre le racisme et l'intolérance

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## European Commission against Racism and Intolerance

### SECOND REPORT ON ESTONIA

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For further information about the work of the European Commission against Racism and Intolerance (ECRI) and about the other activities of the Council of Europe in this field, please contact:

Secretariat of ECRI  
Directorate General of Human Rights – DG II  
Council of Europe  
F - 67075 STRASBOURG Cedex  
Tel.: +33 (0) 3 88 41 29 64  
Fax: +33 (0) 3 88 41 39 87  
E-mail: [combat.racism@coe.int](mailto:combat.racism@coe.int)

Visit our web site : [www.coe.int/ecri](http://www.coe.int/ecri)

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## **Foreword**

*The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.*

*One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.*

*At the end of 1998, ECRI finished the first round of its country-by-country reports for all member States. ECRI's first report on Estonia is dated 6 March 1998 (published in January 1999). The second stage of the country-by-country work, initiated in January 1999, involves the preparation of a second report on each member State. The aim of these second reports is to follow-up the proposals made in the first reports, to update the information contained therein, and to provide a more in-depth analysis of certain issues of particular interest in the country in question.*

*An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.*

*The contact visit to Estonia took place on 24-27 April 2001. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Estonian national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Estonian national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.*

*Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.*

***The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 22 June 2001 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.***

## **Executive Summary**

Estonia has taken a number of steps in recent years towards addressing issues of racism, intolerance and discrimination, including measures to improve the quality of Estonian-language teaching, moves to facilitate access to citizenship for some groups such as minors and the recent adoption of a long-term integration strategy with the goal of ensuring that all members of Estonian society, both majority and minority groups, participate in a united society in which linguistic and cultural diversity are protected.

However, serious problems remain, particularly as regards the situation of the Russian-speaking communities<sup>1</sup> in Estonia, many of whom are non-citizens. This group of persons is at risk of exclusion and marginalisation from the structures of the country and from the democratic process. Disadvantages in terms of economic and social position lead to social divisions which may in turn evolve into ethnic tensions and effective separation of the majority and minority communities. Despite amendments to the Law on Citizenship, the requirements of this law are still perceived as a barrier by many persons wishing to acquire Estonian citizenship. The issue of the large group of stateless persons residing in Estonia is of particular concern in this regard.

**In the following report, ECRI recommends to the Estonian authorities that further action be taken in a number of areas. These recommendations cover, inter alia, the need to take steps to address the issue of citizenship, particularly in respect of stateless persons, the need to monitor the effects of legislation in the field of language, the need to develop further legislation in the field of combating racism and discrimination, and the need to address a number of problems as regards the asylum and refugee process, given that the currently rather small numbers of asylum applications are likely to grow significantly in the coming years.**

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<sup>1</sup> *In this report, ECRI uses the term "Russian-speaking communities" to refer to those minority groups which generally use Russian as their first language of communication within society. However, this category is composed of many different minority groups, including some of a mother tongue other than Russian.*

## SECTION I: OVERVIEW OF THE SITUATION

### A. International Legal Instruments

1. Since the publication of ECRI's first report, Estonia has ratified the revised European Social Charter. Estonia has also signed Protocol No 12 to the European Convention on Human Rights and ECRI recommends that this Protocol be ratified as soon as possible.
2. ECRI understands that discussions are underway concerning the ratification of the ILO Convention 111 in Respect of Employment and that this Convention will be ratified once the relevant domestic legislation passes through Parliament. ECRI hopes that this ratification will take place shortly. ECRI also understands that it is intended to start procedures to make a declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination and encourages such a step.
3. Ratification of the UNESCO Convention against Discrimination in Education has been discussed by the authorities, and ECRI encourages the authorities to take the necessary steps to introduce domestic legislation with a view to ratifying this instrument. ECRI also urges the authorities to ratify the European Convention on the Participation of Foreigners in Public Life at Local Level, noting with satisfaction that resident non-citizens already have the right to vote in local elections. ECRI further recommends ratification of the European Convention on Nationality, the European Charter for Regional and Minority Languages and the European Convention on the Legal Status of Migrant Workers.
4. International legislation has primacy over domestic legislation and may be directly invoked. However, the Constitution states that no international treaties which clash with the Constitution may be acceded to.

### B. Constitutional Law Provisions

5. Article 12 of the Constitution guarantees equality of all those persons resident in Estonia. It also provides that the incitement to national, racial, political or religious hatred, violence or discrimination shall be prohibited and punishable by law; this is reflected in Article 72 of the Criminal Code. All residents of Estonia - whether citizens or not - are guaranteed basic rights under the Constitution, including the right to unemployment benefits and social services. The Constitution also provides for the right to preserve one's ethnic identity (Article 49), to establish institutions of self-government (Article 50) and the right to receive answers from the authorities in a minority language if at least half of the permanent residents of a locality belong to that minority group (Article 51).

#### - *Citizenship legislation*

6. When Estonia regained its independence, only those persons who enjoyed citizenship in 1940 and their descendents were automatically considered citizens. Persons who settled in Estonia after that date and their descendents can thus only obtain Estonian citizenship by naturalisation. This naturalisation process involves a language examination and an examination on the Estonian Constitution.

7. Following criticism of the requirements for naturalisation, notably the level of competence required in the Estonian language and knowledge of the Constitution, a number of steps have been taken to ease the requirements, particularly as regards older persons, persons with disabilities and children. Thus, in 1998 amendments were made simplifying procedures for minors and in 2000 amendments were made simplifying procedures for persons with disabilities. Recent amendments have facilitated access to citizenship for the children of stateless persons.
8. As regards the language examination, several legal acts have been passed or amended since 1999 with a view to regulating and simplifying the procedure. For example, the final school certificate of proficiency in Estonian is now accepted as satisfying the language requirement for citizenship. A National Examination and Qualification Centre has replaced the Citizenship and Migration Board in assessing the level of competence in Estonian for citizenship purposes. The language requirement is said by the authorities to be set at a minimum conversational level: information regarding the requirement is provided by the National Examination and Qualification Centre, and free assessments of a person's competence are provided.
9. Although the authorities report that the number of persons successfully taking the language test has grown in 2000, this test is still reported to be a barrier for many persons wishing to acquire Estonian citizenship. Around 65% of persons taking the language test pass. Steps have been taken to improve the provision of language teaching for adults wishing to take the language test; however, it is reported that such provision is still inadequate in many cases. Moreover, although a PHARE project has allowed for the reimbursement of 50% of the costs of language training for persons successfully passing the language exam, and unemployed persons may be granted free language lessons, language teaching is in general costly and likely to be almost inaccessible for this reason to many persons living in Estonia. The provision of Estonian language teaching in Russian-language schools is also reported to be inadequate in many cases (see education section). In particular, a shortage of teachers qualified to teach Estonian as a foreign language is cited as a major problem in this respect; it appears that many teachers trained since the 1980s have since changed profession. ECRI notes that the teaching of the Estonian language in Russian schools is the priority of the Supervisory Department of the Ministry of Education for the 2001/2002 educational period.
10. Moreover, the language examination is still perceived by some commentators to be unnecessarily difficult and removed from real-life. In this respect, ECRI notes that a special commission has been created within the Ministry of Education with the task of amending the arrangement of the Estonian language proficiency examinations and of developing the system of examinations. It has also been commented that the Constitution test, which is taken in the Estonian language, requires a higher level of language competence than the language examination itself. ECRI notes that the authorities have taken steps towards combining the Constitution tests with the civic exam taken at the end of secondary school and encourages the completion of this process as soon as possible.
11. Although ECRI notes the principle that all Estonian citizens should have a knowledge of the state language, it is aware that in practice, there are still many persons in Estonia who do not speak any Estonian and who live in regions where they do not have exposure to this language. Such persons may wish to acquire Estonian citizenship but may perceive the language requirement as a genuine barrier. ECRI stresses that the acquisition of citizenship is an important step for many persons in



feeling themselves to be a part of a country and its society. ECRI strongly recommends that the provision of language teaching be improved throughout the country, particularly in those regions where Estonian is not commonly used as an everyday language, and that such teaching should be provided free of charge to all persons wishing to obtain Estonian citizenship. In addition, ECRI considers that further measures should be taken to increase awareness among non-citizens of the actual requirements of the language examination and to reduce apprehensions about its content.

12. The Law on Citizenship forbids the granting of citizenship to former military and security service personnel and their spouses and families. ECRI is concerned that the spouses and children in question, who themselves have played no military or security service role, are thus deprived of the opportunity to become Estonian citizens. Widowed and divorced persons and children above the age of 18 can apply for citizenship through naturalisation in accordance with the law. ECRI is of the opinion that the decision to refuse citizenship on the grounds of former military or security service activity should be made on an individual, case-by-case basis, allowing the possibility for exceptions, for example on humanitarian grounds.

- ***Language Law***

13. The Language Law contains requirements concerning knowledge of the State language for certain categories of employees within the public and private sector. Thus, in August 1999, requirements were established as regards the level of knowledge of the State language required for employees of state and municipal institutions and for doctors, psychologists and pharmacists working in the public and private sector. Amendments introduced to the Act in 2000 also made it compulsory for persons working in the private sector who communicate with members of the public (for example, providing information, offering services, providing security services etc) to satisfy the Estonian language requirements. The law makes it binding upon employees to confirm their knowledge of the language: supervision of the law is effected by the Language Board. Employers are responsible for ensuring that their employees meet the requirements: if the requirements are not complied with after a certain period of time (during which the person concerned is expected to undertake language classes), the Board can take steps against the employer, such as writing a recommendation, requesting that the person in question be dismissed, or setting a small fine. In the year 2000 the Board conducted over 2 500 checks and found nearly 1 500 violations of the Law on Language.

Language courses are provided by local authorities for employees; some of these courses are partly reimbursed but they are not free of charge. Additionally, some projects have been put in place to address the language training needs of certain groups such as police officers and teachers in Russian schools. Mechanisms have also been established to enable so-called “socially high priority groups” to participate in the language courses free of charge or with 75% reimbursement of the costs.

14. ECRI is concerned that the implementation of the Language Act may potentially lead to a situation in which individuals face discrimination in employment. For example, employers may in some cases prefer to hire Estonian mother-tongue speakers or even to dismiss non-Estonian speaking employees to avoid difficulties in respect of the law. ECRI is also concerned that the definitions of which categories of employees are required to demonstrate their knowledge of the State language and at what level are rather unclear. Furthermore, the lack of sufficient language teaching facilities

across the country and the fact that such teaching is not free of charge are likely to prove to be a serious barrier to employees who find themselves obliged to learn Estonian within a short time period. ECRI recommends that the implementation of the Law on Language be very closely monitored and that its application be strictly in accordance with its Article 21 which restricts the scope of application of the Law only to expressed public interests permissible under international law and in proportion to the legitimate aim sought. Moreover, ECRI stresses that requirements concerning the knowledge of Estonian should be accompanied by strenuous efforts to provide high-quality and easily accessible language training courses across the country and free of charge.

- ***Law on Elections to Parliament and Law on Elections to Council of Local Self-Government***

15. In 1998, Parliament adopted amendments to these two laws specifying linguistic requirements in Estonian for parliamentary and local council deputies and candidates to representative bodies. The Governmental Election Committee has initiated legal action against two elected deputies of local councils on the grounds that their knowledge of the State language was insufficient: one such action led to a revocation of the deputy's mandate. Noting that the political representation of non-ethnic Estonians is rather low, ECRI expresses its concern that the linguistic requirements for elected representatives may prove an additional barrier to the participation of such groups in public life in Estonia.

- ***Law on Cultural Autonomy for National Minorities***

16. A Law on Cultural Autonomy for National Minorities, based on a 1920s law, was passed in October 1993. It stipulates the right of "individuals belonging to a national minority to establish cultural autonomy in order to achieve the cultural rights given to them by the Constitution" and grants this right to four named minority groups: German, Russian, Swedish and Jewish, and to any other group of over 3 000 individuals forming a national minority. However, it is generally considered that this law has proved ineffective in practice, particularly as regards its implementation, and to date only one group – the Ingerians – has compiled the list of 3000 persons needed to form a minority for the purposes of the law. A bill was introduced in 1999 to address some of the shortfalls in the Cultural Autonomy Act, but failed to find a consensus. ECRI considers that work on this issue should continue as a matter of priority and that the provisions and implementation of the current law should be reviewed, in close co-operation with members of minority groups, in order to evaluate and remedy its shortfalls as a means of protecting the culture and identity of the various minority groups residing in Estonia today.
17. As noted in ECRI's first report, non-citizens residing in Estonia may participate in the activities of national, cultural and educational non-governmental organisations and religious congregations of national minorities but cannot vote or be elected to the leadership of cultural self-governments. ECRI reiterates its recommendation that this restriction be reconsidered, particularly given the sizeable non-citizen population in Estonia. ECRI also notes that only citizens are recognised as national minorities under the law, in accordance with the declaration made by Estonia when ratifying the Framework Convention on National Minorities.

### **C. Criminal Law Provisions**

18. Article 72 of the Criminal Code prohibits the incitement to national, racial, religious or political hatred, violence or discrimination. Such acts are punishable by a fine or deprivation of liberty of up to one year or up to three years if the act in question results in grave consequences such as the death of a person. Under Article 72 subsection 1 it is also possible to hold a person criminally liable and to punish by a fine or arrest for the violations of the principle of equality, ie for direct or indirect restriction of an individual's rights or for establishing direct or indirect preferences for an individual on the basis of his or her nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. ECRI notes that a new Penal Code, containing similar provisions in its Article 10, was adopted by the Parliament in June 2001 and will enter into force with a special act.
19. Very few cases have been brought under Article 72 of the Criminal Code, and only 3 persons have been convicted. Apparently most incidents of incitement to hatred involve material put out by individuals on the Internet or racist graffiti. ECRI encourages the Estonian authorities to investigate this lack of cases and of successful prosecutions, in order to evaluate the effectiveness of the criminal law provision in combating manifestations of incitement to racial hatred.
20. No criminal provisions exist defining ordinary crimes with a racist element as racist crimes, and there is no scope for racist motivation to be taken into account by the courts as an aggravating circumstance when sentencing. In accordance with its general policy recommendation No 1, ECRI encourages the Estonian authorities to introduce such provisions.

### **D. Civil and administrative law provisions**

21. Some provisions exist in employment legislation to combat discrimination, namely the Employment Services Act and the Employment Contracts Act, according to which it is illegal to give preferences or to restrict the rights of employees on the grounds, inter alia, of their nationality, colour, race, native language, or religion. ECRI notes that a new Employment Contracts Act is being drafted which is to deal with the issue of workplace-related discrimination in the light of the European Union Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
22. However, there is no comprehensive body of civil and administrative law prohibiting discrimination in fields such as housing, education and access to public services. ECRI strongly recommends the adoption of such a body of legislation. This would be particularly opportune since a number of changes are currently underway in the field of civil and administrative law in Estonia.

### **E. Specialised bodies and other institutions**

#### **- Office of the Legal Chancellor/Ombudsman**

23. The Office of the Legal Chancellor was established in 1992 with the function of supervising the application of all laws vis-à-vis the Constitution. In 1999 the functions of Ombudsman were added to the duties of the Legal Chancellor. The Ombudsman's

main areas of activity include investigating complaints concerning unfair decisions, maladministration and the quality of public service. The Ombudsman also takes initiatives such as visiting places of detention and reviewing the media, and participates during the process of drafting legislation.

24. The number of cases dealt with has risen steadily since the inception of the Ombudsman function. No cases directly concerning racial or ethnic discrimination have been dealt with. A number of cases concern the issuing of residence permits. Both citizens and non-citizens may apply to the Ombudsman, and ECRI is pleased to learn that the Ombudsman has taken steps to raise awareness amongst all groups in society of his office, including interviews with Russian-language media and planned visits to different counties. A regional office of the Ombudsman has recently been established in the North-East of Estonia, where many members of minority groups live.
25. At present, there are no plans to set up a specialised body with specific responsibility in the field of combating racism and intolerance as recommended in ECRI's general policy recommendation No 2. ECRI encourages the Estonian authorities to address this issue, either by considering the creation of a specialised body dedicated to combating racism and intolerance, or by allocating additional funds and personnel to the existing Ombudsman's office in order to allow it to provide a specialised function in this area.

- ***Presidential Round Table on National Minorities***

26. A Presidential Round Table was set up in 1993 as a forum for dialogue on matters concerning minority groups. Its members are appointed by the President of the Republic and have expertise in the matters in question; the majority are of non-Estonian ethnic origin. Following some concern that the Round Table had become merely a "decorative" body, its function was reviewed in 1999, and its role is now seen as an advisory one. ECRI feels that such a body does have an important role to play in Estonia today, particularly in providing advice and recommendations concerning policy and legislative measures, and hopes that consideration will be given as to how its expertise and authority may best be utilised, for example when new legislation in its area of competence is being drafted. In this respect, ECRI encourages the authorities to clarify the mandate and functions of the Presidential Round Table and to identify institutional solutions to guarantee its continuation and independence.

**F. Education and training/awareness-raising**

- ***School education***

27. ECRI is pleased to learn that issues of tolerance and communication are dealt with from the primary level in a curriculum subject covering different courses such as health education, communication, psychology and family study at different schools levels. The subjects of human rights, integration strategies, and multiculturalism are addressed at the secondary level in civic studies. Given that the majority of schools are currently either Russian-language or Estonian-language schools, which may tend to separate children from different ethnic groups, ECRI feels that it is particularly important to include teaching on the culture and identity of the various groups living in

Estonia and to continue and expand exchanges between pupils of different schools in order to foster contacts and friendships amongst children from all groups in society.

## **G. Reception and status of non-citizens**

### **- Stateless persons**

28. The issue of the large population of stateless persons residing in Estonia is dealt with below under issues of particular concern.

### **- Refugees and asylum seekers**

29. In its first report, ECRI expressed the hope that steps would be taken to implement the Refugees Act of 1997. ECRI thus notes with satisfaction steps taken in this direction, including the issuing of government regulations to implement the Act, the opening of a specialised reception centre for asylum seekers, and training for officials of the Citizenship and Migration Board in dealing with asylum issues.

30. To date, Estonia has received very few asylum applications: 51 applications from 1997 to June 2001, of which four have received refugee status and a few others have been granted a residence permit on humanitarian grounds. The reception centre currently hosts 8 asylum seekers.

31. In the light of these small numbers, ECRI is particularly concerned to learn that the processing time for applications is around 2 years. This is due in part to the appeals procedure: appeals against decisions made by the Bureau for Refugees (first instance) are made to the normal courts, which cannot themselves take decisions on asylum applications but can only refer applications back to the Bureau for Refugees for reconsideration. Around 50% of decisions appealed to the courts are overturned, often for procedural reasons, although some court decisions also address the substance of applications. ECRI considers that such long delays are undesirable and urges the authorities to put in place a system whereby appeals against negative decisions can be made to a second-instance body which could itself issue decisions concerning asylum applications. ECRI also notes that no system of free legal aid is currently provided by the authorities for asylum seekers<sup>2</sup>, and recommends that the authorities finance such legal representation.

32. ECRI is also concerned to learn that border officials may take a decision on asylum applications and that an appeal against such a decision would not have a suspensive effect, i.e. the person in question could be deported while awaiting the outcome of his or her appeal. Although the guards designated for this responsibility are provided with some training and instructions, ECRI feels that such a system does not provide sufficient guarantees and recommends that it be reviewed.

33. During the border procedure, an applicant must remain at the border and is effectively held in detention: this should in principle last no more than 2 weeks but has reportedly lasted for up to one month. ECRI expresses its serious concern at this practice, particularly as it may apply to children.

<sup>2</sup> A non-governmental organisation, the Estonian Refugee Council, currently provides free legal assistance to asylum seekers.

34. As regards deportations, an asylum seeker who has a deportation order issued is currently held in a separate part of the general prison. It has been reported that conditions in this detention facility are not adequate and that the persons concerned may have difficulty in accessing legal recourse due to their imprisonment and their lack of financial resources. Although the legislation specifies a two-month maximum time-limit for detention, it may last for long periods of time if it is not possible to carry out a deportation: an administrative court judge can extend the term of detention at the request of the Citizenship and Migration Board. ECRI is of the opinion that asylum seekers, even those whose applications have been deemed unfounded, should not be treated as criminals and should therefore not be held alongside convicted criminals within the prison system. ECRI urges the authorities to ensure that persons faced with detention orders have full access to legal recourse. Furthermore, ECRI considers that the practice of extending the detention of such persons for indefinite periods of time is unacceptable, and that in those cases where deportation cannot be carried out for one reason or another, measures should be taken to regularise the situation of the persons involved.
35. Although these matters may not have had much impact in practice to date given the relatively small numbers of asylum seekers arriving in Estonia, it seems likely that numbers of asylum seekers may rise in the coming years. ECRI notes that amendments to the Refugees Act, which apparently address some of the gaps noted in the current legislation, are pending in Parliament, and hopes that the issues outlined above will be resolved in this context.

- ***New immigration***

36. An immigration quota is set yearly at around 0.05% of the permanent population (citizens and permanent residents). This quota does not however apply to citizens of certain countries, namely European Union member States, Norway, Iceland, Switzerland, Japan, and the United States of America. ECRI is concerned that such a system may give scope for discriminatory practices as regards immigrants wishing to enter Estonia from countries other than those exempted from the quota.
37. Most new immigration is currently from countries of the former Soviet Union. Persons immigrating for reasons of family reunification are now exempted from this quota following a court decision which deemed it unconstitutional that a person applying for a residence permit for family reunification purposes be refused explicitly on the grounds of the immigration quota. ECRI hopes that the Aliens Act will be amended to reflect the current practice based on this court decision regarding family reunification.

- ***Resident non-citizens***

38. A large proportion of the Estonian population are non-citizens of Estonia. Around 285 000 persons hold permanent or temporary residence permits, from a total population of around 1.5 million persons. Many of these non-citizens hold Russian citizenship; a large group (175 000 persons) are stateless (see areas of particular concern below). There is also a sizeable group (estimated at between 30 000 –

40 000 persons<sup>3</sup>) of non-citizens living in Estonia with no legal residence status (see below).

39. ECRI notes with satisfaction that non-citizens legally resident in Estonia have the opportunity to vote in local elections, and that in the 1999 local elections the requirement that such persons register as voters in advance of the elections was dropped. Around 50% of these non-citizens voted in the local elections of 1999, which was similar to the proportion of Estonian citizens voting.
40. On the other hand, some aspects of participation in political and civic life are not available to non-citizens. Non-citizens cannot participate in the national elections and cannot stand as candidates in local elections or be members of political parties. As regards the rights foreseen for minority groups, only citizens of Estonia can be considered as belonging to national minorities in accordance with the declaration made by Estonia when ratifying the Framework Convention for the Protection of National Minorities, and only citizens can vote or be elected to the leadership of cultural self-governments. Finally, only citizens can occupy posts as civil servants under the Civil Service Act.
41. Although ECRI recognises that in most countries, certain political rights are only guaranteed to citizens of the country in question, it is concerned that in the case of Estonia, a large number of persons who have resided in the country for most or all of their lives are not able to participate fully in the political and civic life of society. The problem of political representation for non-citizens is exacerbated by the fact that, although some non-ethnic Estonian citizens have formed political parties and have gained seats at the local and national level, proportionally the level of representation of non-ethnic Estonians is rather low. The same can be said of the proportion of non-ethnic Estonian citizens occupying posts within the public administration, particularly at the higher levels.

- ***Non-citizens without legal residence status***

42. An estimated population of around 30-40 000<sup>3</sup> persons are currently residing in Estonia without a legal residence status. This group comprises mainly those who for one reason or another were not able to apply for residence permits before the deadline prescribed by the Law on Aliens. Such persons are in a very vulnerable situation as regards their ability to travel outside the country, and as regards their access to social and health benefits. ECRI considers that the authorities should take steps to regularise the situation of such persons, including for example further simplification of the procedures for applying for residence permits, and campaigns to make it clear that they will not risk expulsion from the country when identifying themselves to the authorities.

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<sup>3</sup> According to governmental estimates of 1999. Governmental estimates from 2001 which are based on the number of persons without documentation who have received social benefits put the figure at 5 000-10 000 persons.

## H. Access to public services

### - **Access to services such as health care, welfare and housing**

43. In principle, all legal residents in Estonia have equal access to social services such as health care, welfare and housing. The Health Care Administration Act requires that *emergency* medical care be provided to all persons staying in Estonia, and that local authorities organise medical services for those without medical insurance. However, it has been reported that in some areas, certain groups face disadvantage. For example, reportedly lower income levels and unemployment among minority groups living in certain areas may hinder their ability to pay for health care services, while persons with no legal residence status have no access to public health care services. ECRI encourages the Estonian authorities to monitor the situation in this respect in order to uncover and remedy any discrimination which may occur.
44. In its first report, ECRI expressed concern that non-citizens were obliged to apply for a permit to the county governor before privatising land in border areas. It appears that this situation has not changed since the publication of ECRI's first report. Another distinction between citizens and non-citizens without a permanent residence permit concerns the conclusion of rental contracts: legal contracts may be concluded only for the period for which temporary residence has been approved. ECRI is concerned that this regulation may leave non-citizens with temporary residence permits in a vulnerable situation when renting accommodation.

### - **Access to education**

45. Presently, most schools in Estonia, from the kindergarten level to secondary level, are either Estonian-language schools or Russian-language schools. Projects to introduce minority languages such as Ukrainian into schools have failed, reportedly due to lack of interest on the part of the communities concerned. The Law on Primary and Secondary Schools provides that "the transition to Estonian-language teaching in state and municipal secondary schools shall begin no later than 2007/2008": an amendment to the law passed in April 2000 stipulated that 60% of instruction in all high schools should be in Estonian while the remaining 40% could be in another language. Steps are already being taken to move towards this goal, although it seems to be generally considered that most Russian-language schools will not in practice be ready to deliver the required amount of Estonian-language teaching by the deadline. Russian-language schools are free to choose at present which subjects are taught in Estonian; at the basic school level two subjects currently have to be in Estonian.
46. Concerns have been expressed that the new provisions on the education system, particularly the deadline of 2007, are unrealistic and that there is too much uncertainty surrounding their implementation. For example, there is a severe lack of trained and competent teachers of the Estonian language in the Russian-language schools, and it is not clear what will happen to the surplus of teachers teaching various subjects in Russian once the increased teaching in Estonian is introduced.
47. While recognising the importance to all children in Estonia of a good mastery of the State language, ECRI stresses the need to ensure that children from minority groups, including those whose parents cannot pay for private education, continue to have access to high—quality education in the language of their choice and that they are not placed in a disadvantaged situation due to insufficient provision of Estonian-



language teaching to equip them to study a range of subjects in that language. ECRI urges the authorities to ensure that due consideration is given to developing methodologies and strategies for training teachers in delivering education in Estonian to non-Estonian mother-tongue pupils. Noting that obligatory schooling does not start until the age of seven in Estonia, and that kindergarten schooling is fee-paying, ECRI particularly stresses the need to ensure that non-Estonian mother tongue children have an opportunity to gain exposure to the Estonian language before they start their obligatory schooling.

48. As regards State-funded tertiary education, students can begin their tertiary studies in Russian but must graduate in the Estonian language.

### **I. Employment**

49. Little detailed analytical information seems to be available concerning differences in the employment patterns of the various groups living in Estonia: although unemployment levels are significantly higher among the Russian-speaking communities, this is ascribed at least in part to the fact that these communities are concentrated in depressed areas and in sectors of the economy which are now in decline. It is not clear to what extent discrimination may exist within the labour market. ECRI is concerned that the above-mentioned pattern may lead to the development of an underclass composed primarily of members of minority groups, which in turn may lead to a rise in tensions between the majority and minority communities. ECRI feels that the situation as regards the economic and employment situation of minority groups should be closely monitored and steps taken to address any problems of disadvantage.
50. The Russian-speaking minorities are under-represented within the public service, particularly at the higher levels. ECRI feels that proactive steps should be taken to address this situation and to encourage recruitment at all levels of public service for members of minority groups.

### **J. Vulnerable groups**

51. The issue of Russian-speaking minorities and of stateless persons is dealt with below under "Issues of particular concern".

### **K. Monitoring the situation in the country**

52. There appears to be a lack of reliable data concerning the relative situation of the various groups in society across a number of fields of social and economic life, and concerning the incidence of discrimination. ECRI feels that in order to evaluate the evolving situation of minority groups in Estonia, it is necessary to set up a system of data collection and monitoring, in order to uncover and remedy any problems or developments, including differences related to direct or indirect discrimination.

## **L. Conduct of law enforcement officials**

53. ECRI has been informed that none of the cases of disciplinary investigations against the police have thus far involved issues of discrimination against members of minority groups. Investigations are carried out by the head of the police unit of the officer involved, or the police board at a higher level. ECRI recommends the creation of an independent mechanism, separate from the police structures, for investigating allegations of police misbehaviour.
54. There are police officers from the Russian-speaking communities, particularly in those regions of the country where these communities are numerically important. During recruitment, extra points are awarded to members of minority groups to compensate for any disadvantage due to the fact that Estonian is not their mother tongue. Some projects have been set up to improve the Estonian language skills of police officers; ECRI encourages the further development of such projects, particularly given the requirements for knowledge of the Estonian language contained in the Law on Language and which may impact on police officers from minority groups.

## **M. Media**

55. During the 1990s, the media tended to play a role in heightening ethnic tensions and prejudices between the majority and minority communities in Estonia, with the Estonian-language media presenting the Russian-speaking minorities as “outsiders” who posed a threat to Estonia, and the Russian-language media raising ill-feeling among the Russian-speaking minorities. ECRI is pleased to learn that the situation in this respect appears to be improving and that the media are presenting a more balanced view. On the other hand, the Estonian-language and Russian-language media still tend to be very separate, reporting on different events or on the same events in a totally different fashion. Many Russian-speakers do not make use of the Estonian-language media at all and reportedly receive much of their information, particularly on current events, from other countries: due to the requirements of the Law on Language, which stipulates that the amount of foreign language programmes without translation into Estonian shall not exceed 10% of the weekly original production, broadcasting in Russian is rather limited on Estonian television, with only approximately 45 minutes of Russian language programming daily on public TV and 15 minutes of Russian language news. Radio 4 broadcasts programmes mainly in Russian for about 120 hours per week.
56. ECRI considers that the media has an important role to play in building contacts and understanding between the majority and minority communities in Estonia, and encourages in this respect initiatives aimed at reaching both communities simultaneously, for example, printed press presenting the same articles in both languages, and more provision of television broadcasting of interest to both communities and made accessible to all residents in Estonia through translations and sub-titling.
57. ECRI also encourages the media professions to adopt codes of self-conduct in this respect.

## SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Estonia, ECRI would like to draw attention to the situation of the Russian-speaking minorities within Estonian society and to the problem of statelessness.

### **N. Russian-speaking minorities**

58. As mentioned in other sections of this report, minority groups using Russian as their language of communication face difficulties in several spheres of life. Although it appears that severe and violent manifestations of intolerance and racism are not a common occurrence in Estonia today, ECRI is concerned that there is still a lack of a sense of Estonia as a multicultural society of which minority groups form an integral part. As outlined above, in proportion to their numerical size members of the Russian-speaking minorities are seriously under-represented in the various structures of society, such as its political life and its administrative structures, including the civil service, the judiciary and in state enterprises. It has also been reported that they are under-represented in private businesses and among other elite groups in society. Moreover, social problems such as unemployment have tended to impact disproportionately upon certain minority groups and certain regions in which minority groups are concentrated. Thus, although some segments of the minority communities have achieved a fairly good degree of integration into the social, economic, political and civic life of Estonia, others are largely excluded. Moreover, it has been reported that the economic and social situation of these persons is steadily deteriorating relative to that of ethnic Estonians.
59. ECRI stresses that such a situation is likely to lead to the effective marginalisation and disaffection of members of these groups, who may form a sort of “underclass”, creating a climate in which ethnic tensions, even if they are not acute at the present time, may resurface. ECRI feels that an urgent priority is to address the continuing divisions between the different ethnic groups in Estonia. These divisions exist at the level of social communication and contacts, political and civic participation and representation, and social and economic position. ECRI therefore welcomes the recent steps taken by the government to elaborate and adopt an integration strategy, laid down in the programme “Integration in Estonian Society 2000-2007”, which has generally been well-received among the various actors in Estonian society as a positive step. This programme aims to treat Estonia as a society in which there is linguistic and cultural diversity in addition to the common traits linking people: it thus has as a goal the harmonisation of society alongside the opportunity to preserve ethnic differences, and foresees an equal participation of both ethnic Estonians and non-ethnic Estonians in this process. It addresses three main areas of integration: cultural and linguistic, political and legal, and social and economic.
60. ECRI encourages the authorities in their efforts to integrate both ethnic Estonians and minority groups into one society, and hopes that this issue will continue to be given a high political priority and sufficient resources to implement in concrete terms the strategies contained in the integration programme. In particular, ECRI stresses the need to ensure that the minority groups living in Estonia, both citizens and non-citizens, as well as key players in civil society, are fully implicated on an equal footing in the process of developing and evaluating plans and strategies. ECRI also welcomes the intention to ensure that the different cultures, languages and identity of minority groups are not lost or diminished in the process of integration, stressing that

the developing notions of Estonian identity can be enriched by encompassing and protecting such various elements.

61. Although most non-ethnic Estonians are generally collectively considered to be Russian-speakers, using Russian as their first main language of communication in society, there are in fact over 100 minority groups living in Estonia, many of whom use a language other than Russian as their mother tongue. ECRI considers that it is most important to ensure that the differing needs and identities of these groups are addressed. At present, little seems to be known about the situation of some of these groups: for example, there seems to be a lack of information about Estonia's small Roma/Gypsy population. Other smaller communities may also face particular problems due to their religion or culture: for example, it has been reported that the Muslim religion is not well-understood in Estonia although there are several Muslim communities. ECRI urges the authorities to take steps to ensure that the specific identities, needs and problems of the different minority groups are taken into account in developing policies and actions to integrate the various components of Estonia into society.

#### **O. Stateless persons**

62. As stated elsewhere in this report, a large proportion of the Estonian population are non-citizens. Many of these persons (175 000 persons) hold no citizenship at all. There are differing views as to why so many persons in Estonia have still not acquired citizenship of Estonia or of another country. Some commentators report that most of these persons see no practical need to acquire citizenship for their daily lives; or that gaining Estonian citizenship would hinder their travel to visit family members due to visa requirements (although stateless persons are now also subject to such visa requirements), or that they would like the possibility to hold dual citizenship. Others draw attention to the requirements for gaining citizenship, particularly the language requirements, as a significant barrier for many persons.
63. Whatever the reasons behind the current situation, ECRI deplores the fact that such a large proportion of the Estonian population remains stateless. In particular, ECRI stresses that such a situation is likely to continue to hinder the current efforts of the Estonian authorities to integrate the different groups into society. In concrete terms, persons without citizenship are not able to participate fully in the political and civic life of Estonia, since they can only vote in local elections and cannot stand as candidates at either the local or the national level, or be members of political parties, or be elected to the organs of cultural self-government. Moreover, many of these persons apparently belong to the less privileged groups in society in terms of educational levels and social position, which may exacerbate their alienation. In more psychological terms, they are unlikely to feel themselves to be or to be perceived as full and equal members of Estonian society, and may suffer from feelings of insecurity and lack of identity. Surveys have shown that many of the stateless persons in Estonia do feel a sense of bitterness and injustice concerning their current situation, which might lead to the development of tensions and frictions within society manifested along ethnic lines.
64. ECRI notes that a survey conducted in 1996 showed that as little as 7% of stateless persons expressly did not want or would rather not acquire Estonian citizenship; surveys have shown that 80-90% in fact wished to obtain citizenship, and that stateless persons are overwhelmingly in favour of gaining citizenship for their

children. In this respect, ECRI welcomes the amendments made to the Law on Citizenship simplifying procedures for the naturalisation of the children of stateless persons, and hopes that the situation of most stateless children will soon be resolved as a result. However, it has been reported that for other groups of stateless persons, the naturalisation process has slowed down and in fact almost ceased. ECRI feels that further steps still need to be taken as a matter of priority to reduce statelessness among adults in Estonia, including the possibility of reviewing the requirements for the acquisition of citizenship, as outlined above (see Law on Citizenship) and through measures to encourage such persons to apply for Estonian citizenship. ECRI stresses that even if children of stateless persons can now obtain citizenship more easily, it remains important to integrate their stateless parents into society and its democratic processes through the granting of citizenship, not least to ensure that the next generation does not retain a sense of injustice or bitterness regarding the situation of their parents.

65. Persons resident in Estonia who have no citizenship have been given the possibility to obtain “aliens’ passports”. ECRI noted in its first report that such passports were only recognised by a limited number of countries and thus did not allow for free travel, and stressed that a solution should be identified to remedy this problem. ECRI has not received information about the extent to which such passports are today recognised by other countries; however, it feels that the only long-term solution to this issue would be to ensure that all such persons gain citizenship.

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