

European Commission
against Racism and Intolerance

ECRI
Commission européenne
contre le racisme et l'intolérance

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**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF ESTONIA
SUBJECT TO INTERIM FOLLOW-UP**

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¹ Any developments which occurred after 23 November 2017, date on which the response of the Estonian authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

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FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2012)1154/4.2.

1. *In its report on Estonia (fifth monitoring cycle) published on 13 October 2015, ECRI recommended that the authorities introduce without delay in parliamentary proceedings a draft amendment to Article 151 of the Criminal Code, removing the restriction whereby an offence cannot be deemed to have taken place unless it is proven that it entails a risk to the health, life or property of the victim. At the same time, ECRI recommended that the authorities put in place a system to collect data and produce statistics offering an integrated and consistent view of the cases of racist and homo/transphobic hate speech and violence brought to the attention of the police and/or being pursued through the courts.*

With regard to the first part of the recommendation, ECRI has been informed that Article 151 of the Criminal Code has not been amended. The authorities, particularly the Ministry of Justice, are of the opinion that the current wording of Article 151 allows for the interpretation that the crime has taken place, without requiring a proof of risk to either the health, life or property of the victim. Based on information received from the Ministry of Justice, the Prosecutor's Office and the police have been advised to interpret this provision more broadly to this end and hence, there is no intention to change the legislation. Recalling the importance of legal certainty, ECRI reiterates that the criminal law provisions must be sufficiently clear to provide individuals with the means to regulate their own conduct and to protect against any arbitrary use of the law. In ECRI's view, Article 151 cannot be applied in line with its recommendation by way of interpretation and ECRI therefore concludes that this part of the recommendation has not been implemented.

ECRI takes positive note that significant steps have been taken in order to collect data and produce statistics on cases of racist and homo/transphobic hate speech and violence, which constitutes the second part of the recommendation. ECRI has been informed that, since the end of 2016¹, the police are able to register reported cases on the basis of "hate motive" (vaenumotiiv in Estonian) that are available in different classifications which are as follows: i) bias against race, religion, origin; ii) bias against sexual orientation and gender identity; iii) bias against other groups. Once registered, all reported crimes are kept in an electronic system called E-File that is used by several databases including the Criminal Case Management Register, which is a database for prosecutors and investigative bodies. In addition, the Ministry of Justice has started to regularly publish data on hate crimes as part of its annual report on crime in Estonia. ECRI is pleased to note that a special chapter has been devoted to hate crimes in the 2016 report.² The authorities have also informed ECRI that the Ministry of Justice prepared an instruction to describe methods for identifying hate crimes, on which law enforcement officials are currently receiving training. ECRI welcomes these developments and considers them to be very positive and important steps towards combating racism and intolerance more effectively. It therefore concludes that this part of the recommendation has been implemented.

Overall, ECRI considers that its recommendation has been partially implemented.

¹ Also see. <http://hatecrime.osce.org/estonia>

² See p. 62-64, available on http://www.kriminaalpoliitika.ee/sites/krimipoliitika/files/elfinder/dokumendid/kuritegevus_eestis_est_web_0.pdf

2. *In its report on Estonia published on 13 October 2015, ECRI recommended that the authorities take advantage of the launch of the 2020 integration strategy to run an information campaign for all vulnerable groups, and in particular the Russian-speaking minority and/or persons of undetermined citizenship, placing the emphasis on the fact that the state believes that each of these groups should integrate fully into Estonian society and that they are welcome there.*

ECRI notes that the Estonian authorities have taken several steps with regard to this recommendation. ECRI has been informed that the Estonian Ministry of Culture allocated funds to conduct an information campaign to encourage young people with a different mother tongue to Estonian to apply for work in the public sector and to explain employment opportunities to these people. Prepared by the Estonian Integration Foundation (MISA) and implemented in the first half of 2017, this campaign was conducted bilingually³ in Estonian and Russian - and included a media campaign on Internet, including social media, as well as several outreach activities in schools and universities. In the framework of this campaign, the administrations of Estonian ministries were also informed of the importance and the methods of recruiting people from different language backgrounds rather than just Estonian native speakers.

ECRI is also pleased to note that a cross-media programme on integration was created to introduce positive and integration-friendly attitudes to Estonians and people of other nationalities who live in Estonia. A television programme called “Meie Eestid”⁴ was designed for this particular purpose and was broadcast on the main Estonian public TV (ETV) channel during the Autumn 2017.

In view of these considerations, ECRI concludes that its recommendation has been fully implemented.

³ <http://karjeravestonii.meis.ee/?lang=ru> and <http://karjeravestonii.meis.ee/>

⁴ <https://etv.err.ee/v/377a7b0f-ef30-44a8-8e37-f15c95db9c2b>

