



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Reports submitted by States parties under article  
9 of the Convention**

**Eighth and ninth periodic reports due in 2008**

**Estonia\* \*\***

[24 July 2009]

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\* This document contains the eighth and ninth periodic reports of Estonia, due on 14 January 2008, submitted in one document. For the sixth and seventh periodic reports and the summary records of the meetings at which the Committee considered the report, see documents CERD/C/465/Add.1, CERD/C/SR.1761, 1762, 1778 and 1779.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction .....	1–9	3
II. Information on articles 2 to 7 .....	10–336	4
Article 2.....	10–40	4
Article 3.....	41–46	8
Article 4.....	47–58	9
Article 5.....	59–257	11
Article 6.....	258–308	44
Article 7.....	309–336	51

### Annex

#### List of tables

Table 1	Churches
Table 2	Monasteries and convents
Table 3	Marriages and divorces 2003–2007
Table 4	Press Council statistics
Table 5	Labour force, unemployed persons, rate of employment and unemployment among Estonians and non-Estonians in the age group 15–74 in 2004–2008
Table 6	Rate of employment in the age group 15–74 based on citizenship
Table 7	Unemployed persons by coping ability
Table 8	The number of children in pre-school child care institutions according to the working language of the institution 2005–2007
Table 9	The number of schools by language of instruction 2002–2007
Table 10	The proportion of pupils in vocational education by language of instruction in the school year 2005/2006–2007/2008
Table 11	The proportion of students in higher education by levels of education and language of instruction in the academic year 2007/2008
Table 12	Self-assessment of the Estonian language proficiency among the Russian-speaking population in Estonia 1989–2008
Table 13	Assessment by the Russian-speaking population of the sufficiency of their knowledge of Estonian for living in Estonia (%)

#### List of figures

Figure I	The number of pupils in general education schools with Estonian or Russian as the language of instruction 2000–2007
Figure II	The number of students undertaking intensified study of the Estonian language in higher educational institutions in Estonia in the period 2004–2007

## I. Introduction

1. This report is submitted under Article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination. Under the article, the States Parties are required to submit periodic reports to the Secretary-General on the measures taken to implement the Convention and the progress achieved. The Convention on the Elimination of All Forms of Racial Discrimination entered into force in respect of Estonia on 20 November 1991. Estonia submitted its consolidated initial, second, third and fourth report in February 1999, the fifth periodic report in May 2002, and the sixth and seventh periodic report in November 2004. The Committee on the Elimination of Racial Discrimination published its concluding observations with regard to Estonia's sixth and seventh report on 14 and 15 August 2006.

2. The report reflects legislative, administrative and other measures taken to implement the rights provided for under the Convention. The reporting guidelines were followed in drawing up the report. The questions and recommendations by the Committee during the discussion of the sixth and seventh periodic report of Estonia were also taken into account. Special attention was paid to concerns raised by the Committee in its concluding observations.

3. Involved in drawing up the report were the Ministry of Justice, the Ministry of Social Affairs, the Ministry of Education and Research, the Ministry of Internal Affairs, the Ministry of Culture, and the Office of the Minister for Population and Ethnic Affairs.

4. The report covers the period from 2005 to 2008. The statistics are presented according to their availability either as of 2007 or 2008. Changes introduced in 2009 for better implementing the objectives of the Convention are also reflected in the report.

5. In its concluding observations with regard to the sixth and seventh periodic report, the Committee welcomed the fact that the report addressed some of the concerns and recommendations set forth by the Committee in its previous concluding observations, and also noted with appreciation the involvement of civil society organisations in the preparation of the report and references made in the report to the comments of such organisations. The Government of Estonia continues this tradition and has also involved non-governmental organisations in preparing this report.

6. Estonia's draft eight and ninth periodic report was forwarded for comments and proposals to four non-governmental organisations: Human Rights Centre of the Tallinn University of Technology, the Institute of Human Rights, Jaan Tõnisson Institute, and the Legal Information Centre for Human Rights. Feedback was received from three of the NGOs: Human Rights Centre of the Tallinn University of Technology, the Institute of Human Rights, and the Legal Information Centre for Human Rights. The information presented and problems raised by the NGOs are reflected in the report.

7. Estonia's reports to international organisations are published on the homepage of the Ministry of Foreign Affairs (<http://www.vm.ee>) and they are available to the public as of the time of their submission to the relevant organisations. This report is drawn up in Estonian and is translated into English. The report is published both in Estonian and English on the website of the Ministry of Foreign Affairs. The Committee's latest concluding observations are also available on the website in Estonian and English.

8. Although taking note of paragraph 26 of the Committee's concluding observations, it must be admitted that the Government does not have resources to translate reports and concluding observations into the languages of all the minorities in Estonia. However, as the

first language of many of the minorities is Russian, the Government will consider the possibility of translating the report into Russian.

9. To ensure clarity of the report and of the topics covered, information has been presented article by article and answers to the Committee's questions are given under the article dealing with the relevant topic.

## **II. Information on articles 2 to 7**

### **Article 2**

10. Estonia continues to pay close attention to the protection of human rights and fundamental freedoms by legislative as well as other measures. Estonia has always condemned racial discrimination and made all efforts to create possibilities for carrying out the policy of elimination of racial discrimination.

11. The fundamental bases for the prohibition of racial discrimination are established by the Constitution. More specifically, the issues of discrimination are regulated in the Equal Treatment Act, the Gender Equality Act, the Wages Act, the Labour Contracts Act, the Penal Code, and various other legislation.

12. The Equal Treatment Act entered into force on 1 January 2009 (direct link to the English translation of the Act: <http://www.legaltext.ee/et/andmebaas/document.asp?Ptyyp=RT&q2=v%F5rdse+kohtlemise+seadus&order=TA&tyyp=X&query=&display=1>). The Act provides more specifically for the protection of individuals against discrimination on the grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation. It establishes the principles of equal treatment, the duties for implementing and promoting the principles, and the procedure for resolution of discrimination disputes.

13. Implementing of the Equal Treatment Act and the Gender Equality Act is monitored by the special Gender Equality and Equal Treatment Commissioner (previously called the Gender Equality Commissioner).

14. The Equal Treatment Act transposed into Estonian legislation two directives of the European Communities (2000/43/EC and 2000/78/EC), the first of which implements the principle of equal treatment between persons irrespective of racial or ethnic origin, and the second establishes a general framework for equal treatment in employment and occupation. Transposing of Directive 2000/43/EC was also recommended by the Committee in paragraph 11 of its concluding observations.

15. Each ministry monitors implementing and promoting of the principles of equal treatment within its area of government and engages in relevant cooperation with other persons and agencies. Coordinating the activities of equal treatment is the task of the Ministry of Social Affairs.

16. With regard to paragraph 25 of the Committee's concluding observations, we confirm that Estonia has indeed not ratified Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. However, we would like to emphasise that the protection of individuals against discrimination in Estonia is guaranteed by the Constitution, the Equal Treatment Act and other legislation.

17. The Penal Code establishes liability for incitement of social hatred (§ 151), violation of equality (§ 152), and discrimination based on genetic risks (§ 153) (the content of the relevant sections is provided in paragraphs 48, 51 and 52 of the report).

18. In 2006 and 2007, the police did not initiate any misdemeanour proceedings concerning racial discrimination and incitement of hatred. According to the statistics for nine months of 2008, misdemeanour proceedings under § 151(1) of the Penal Code were initiated in respect of one individual who had posted comments on a local government internet forum using indecent and contemptuous language and expressions inciting to social hatred with regard to his Russian neighbours. The proceedings were terminated due to the absence of elements of a misdemeanour offence.

19. In Estonia, the responsibility of protecting the constitutional order lies with the police, in particular the Security Police Board. The Security Police Board has the duty to prevent, combat and detect illegal activities of extremist groups or individuals (including those inciting to racial hatred). Special emphasis is given to preventive activities among young people. The main element of such prevention is awareness-raising. In the period 2006–2008, the Security Police Board did not initiate any criminal cases concerning criminal offences against equality (§ 151(2) Penal Code).

20. To improve preventive activities, the public is informed about factors facilitating crime, and various possibilities for participating in crime prevention are explained. During campaigns and lectures intended for different target groups, the activities of the police in crime prevention are introduced and cooperation possibilities for inhabitants in counties are explained. For awareness-raising among inhabitants of peripheral regions, including children and young people, a special minibus furnished with necessary equipment and adjusted for prevention campaigns is used. The bus together with the necessary equipment (exhibition tent, portable display stands etc) is used for crime prevention campaigns and other public events in different locations in Estonia. Police information materials on crime prevention have been thoroughly revised both in substance and the extent of topics covered. In 2008, the police carried out 145 crime prevention projects. The public police website contains a link for providing tip-offs to the police by e-mail.

21. The structure of the Ministry of Justice still includes a unit whose main function is to prepare criminal policy decisions for the Government and carry out performance supervision, i.e. analyse the activities of crime prevention establishments to find out whether and how the Government policies are implemented (paragraph 12 of the sixth and seventh report).

22. The Criminal Prevention Council (now called the Crime Prevention Council) established by the Government in 1993 also continues to operate. “The crime policy development guidelines to 2010” approved by the Riigikogu in 2003 are valid until 2010. The document lays down uniform principles and objectives for criminal policy to be observed by public authorities in planning their activities.

23. Since 2008, plans are being developed for approval of criminal policy development guidelines for the period 2010–2018.

24. In the previous report, the area of competence of the Chancellor of Justice was described (paragraphs 16–18). The cases investigated by the Chancellor of Justice are described in paragraphs 275–277 and 282–291 of this report.

25. The Committee in its concluding observations (paragraph 10) recommended Estonia to consider establishing a national human rights institution in accordance with the “Principles relating to the status of national institutions for the promotion and protection of human rights”. Without ruling out the possibility of establishing such an institution, we refer to the fact that the Chancellor of Justice does function as the national institution for the protection of human rights.

26. The non-governmental organisations Institute of Human Rights and the Human Rights Centre of the Tallinn University of Technology have expressed criticism that

Chancellor of Justice cannot be considered a national human rights institution. According to the Institute of Human Rights, the institution of the Chancellor of Justice does not correspond to the requirements of a national human rights institution as regards raising human rights awareness and involvement of social partners in the process of appointing the Chancellor of Justice. Both NGOs have expressed the wish to consider establishing a separate institution or changing the existing institution of the Chancellor of Justice or the Gender Equality and Equal Treatment Commissioner so as to bring them in line with the Paris Principles.

27. Taking note of the criticism expressed by the NGOs and acknowledging that the Chancellor of Justice does not correspond to the Paris Principles, we would nevertheless like to explain that the institution of the Chancellor of Justice has been created by the Constitution and the Chancellor in his or her activities only follows the Constitution and his or her conscience. The Chancellor of Justice is not subordinate to any public official or state agency.

28. The Chancellor of Justice has several legal guarantees to ensure his or her independence. The Chancellor's independence is also ensured by the prohibition to hold any other state or local government office or an office of a legal person in public law during the term of office as Chancellor. The Chancellor may not participate in the activities of political parties, belong to the management board, supervisory board or supervisory body of companies, and to engage in enterprise. The Chancellor of Justice in his or her activities is independent from other bodies exercising state authority.

29. The Chancellor of Justice in Estonia has developed into a well-known and respected official whose opinions are observed equally by the public, politicians and civil servants. In his investigations the Chancellor has repeatedly found that the state's activities have been in conflict with the Constitution or an Act or otherwise violated the rights of petitioners. In 93% of the cases public authorities immediately comply with the Chancellor's recommendations and proposals without any opposition.

30. The Chancellor of Justice enjoys the trust of a large share of population. In 2005, the Chancellor was trusted by 78% of the population; in 2006 and 2007 the Chancellor's trust also reached 78–79%.

31. On 1 May 2004, the Gender Equality Act entered into force (see paragraphs 25 and 27 of the previous report). The Gender Equality Act defines the concepts of gender equality, equal treatment of women and men, and direct and indirect discrimination based on sex, and establishes the duty of promoting equality between women and men. The Act prohibits both direct and indirect discrimination based on sex.

32. Gender equality means the equal rights, obligations, opportunities and liability of women and men in professional life, in acquiring education and participating in other areas of life in society.

33. Based on the Gender Equality Act, the institution of Gender Equality Commissioner was established, which functioned in this form in the period 2005–2008. The main tasks of the Commissioner included monitoring compliance with the requirements of the Gender Equality Act, receiving applications from individuals and providing opinions in cases of possible discrimination based on sex. In addition, the Commissioner's tasks included analysing the effect of Acts on the situation of women and men in society; making proposals to the Government, government agencies and local authorities concerning possible amendments to the relevant legislation; informing and advising the Government, government agencies and local government agencies concerning issues relating to implementation of the Gender Equality Act; and taking measures to promote gender equality.

34. Competencies of the current Gender Equality and Equal Treatment Commissioner also include monitoring compliance with the Equal Treatment Act and the Gender Equality Act; advising and assisting individuals in submitting complaints concerning discrimination; and providing opinions in cases of possible discrimination based on petitions from individuals or on his or her own initiative based on information received by the Commissioner. In addition, the Commissioner publishes reports on implementing the principles of gender equality and equal treatment and takes measures to promote equal treatment and gender equality.

35. Since 2004, the Ministry of Social Affairs has the Gender Equality Department which is tasked with planning gender equality policies and measures to reduce inequality. The department includes eight civil servant positions. It is intended to rename the Gender Equality Department as the Equal Treatment Department.

### **The Second Integration Strategy (2008–2013)**

36. The Minister for Population and Ethnic Affairs in cooperation with civil society and experts prepared the new integration strategy for 2008–2013. The Government approved the plan on 10 April 2008.

37. The integration strategy views integration as an important issue which covers the whole society. The purpose of the strategy is to achieve a situation where all permanent inhabitants in Estonia, regardless of their ethnic origin, feel secure, know the state language, share the values enshrined in the Constitution, and are able to participate in social, economic and cultural life of the country. Everyone is ensured the right to maintain and develop their language and culture.

38. The aim of integration is to strengthen the common state identity of Estonia and develop common understanding of the state among permanent residents of Estonia based on the constitutional values of Estonia as a democratic state governed by the rule of law, as well as on valuing Estonian citizenship and appreciating the contribution of every person to the development of society, while accepting cultural differences.

39. Integration is seen as a two-way process. Successful integration depends on the level of contacts between Estonians and other ethnic groups in Estonia. Until now, integration tended to be a state-level activity where the role of local authorities remained modest. The aim is to highlight regional differences of integration and strengthen cooperation with local authorities.

40. The cornerstone of integration policy is the need to encourage ethnic minorities to participate more actively in social and political life, and more emphasis is placed on equal treatment. The integration strategy aims to achieve a situation by 2013 where:

(a) Estonian language proficiency among those whose mother tongue is not Estonian has improved on all levels;

(b) Contacts and communication between people with different mother tongues have increased and the difference between Estonian-speaking residents and those speaking other languages has reduced with regard to participation in civil society associations and the public sphere;

(c) The number of people with undetermined citizenship among Estonian inhabitants has constantly decreased;

(d) The majority of Estonian inhabitants belonging to different nationalities trust each other and the Estonian state;

(e) The majority of those whose mother tongue is not Estonian regularly receive information via mass media in Estonian and trust this information;

(f) Differences in employment and income of employees of different nationalities have reduced.

### Article 3

41. There is no genocide, apartheid or racial segregation in Estonia. Penalties for genocide (§ 90) and crimes against humanity (§ 89) are established in the Penal Code.

42. No court proceedings have been initiated under § 89 and 90 of the Penal Code.

43. Holocaust is a compulsory topic in the national curriculum both in the basic school and upper secondary school. In addition, the issues of the Holocaust are covered in general education schools within the framework of events on the Holocaust Remembrance Day. Study materials are prepared in cooperation with foreign partners, first and foremost Yad Vashem (Israel), Living History Forum (Sweden), and Task Force for International Cooperation on Holocaust Education, Remembrance and Research (ITF). In Estonia, the Estonian National Examinations and Qualifications Centre with the Estonian History Teachers Society as its principal partner deal with the topic of the Holocaust.

44. In cooperation with subject specialists from the National Examinations and Qualifications Centre, each year schools have also been provided with materials for covering the topic of the Holocaust and crimes against humanity. With support from foreign embassies, history teachers have been sent to further training courses at Yad Vashem Centre and various seminars have been held. Approximately 20% of history teachers in Estonia (80 persons) have attended training on the Holocaust, participated at seminars and conferences in Estonia and abroad. In 1998–2007, over one million Estonian kroons were spent on developing study materials on the Holocaust and training of teachers.

45. The main decisions and events concerning teaching of the Holocaust at schools:

- According to the Government decision of 6 August 2002, 27 January is the day for commemoration of victims of the Holocaust and other crimes against humanity. The purpose of the remembrance day is to raise awareness among young people about the importance of tolerance, democracy and freedom, ignoring of which may lead to crimes against humanity, war crimes, genocide and other violations of human rights also nowadays. Commemorating this day should warn against how fanaticism may develop into violence. For each Holocaust Remembrance Day the Ministry of Education and Research has sent topical materials to schools for the teaching of the Holocaust and celebrating the Remembrance Day. The Ministry of Education and Research has recommended that the schools themselves decide how they wish to celebrate the Remembrance Day. Thus, each school itself decides how to cover the topic at different school levels and within different subjects and what kind of events to hold
- In 2005, the film “Outcast” was sent to schools, produced in cooperation between Yad Vashem International Institute for Holocaust Research and the Israel Ministry of Foreign Affairs. The historical film is a good study material and it can be used both for better understanding of German history as well as covering the topic of the Holocaust in history classes. Sending of the film to schools was organised by the Ministry of Education and Research
- Estonia became member of the ITF in December 2007. The Estonian delegation participates in ITF plenary sessions and in the meetings of the Education Working Group between the sessions
- On 29 January 2007, presentation of the set of study materials “Holocaust” took place at the Museum of Occupations in Tallinn. The set was compiled by the



Estonian History Teachers Society in cooperation with the Living History Forum (Sweden). The purpose of the set is to offer support to teachers in celebrating the Holocaust Remembrance Day and provide additional material for covering the topic in history classes. The set contains informative texts, guidance materials, excerpts from memoirs, as well as study tasks. Separate articles cover the legal and historical aspects of the topic. The set also includes CDs and DVDs (5 films) and it was distributed to all schools

- On 1 February 2008, a seminar for teachers “Estonia and the ITF (Task Force for International Cooperation on Holocaust Education, Remembrance and Research). Feedback on the Holocaust study material” was held in Tartu, organised by the Ministry of Education and Research and the National Examinations and Qualifications Centre. Teachers from all regions in Estonia (20) provided their overviews. Representatives from Yad Vashem (Israel), the Israel Embassy and the Living History Forum (Sweden) were also attending
- In 2006–2007, one teacher in each year participated in the training for Holocaust teaching provided by Yad Vashem. 19 teachers and one researcher participated in the training for Estonian teachers from 22 June to 22 July 2008. Six teachers participated in the training for Holocaust teaching in the United States in 2006–2008

46. As an appendix to the report, we enclose the list of Holocaust study materials.

#### Article 4

47. Chapter 10 (“Offences against political and civil rights”) of the Penal Code includes three offences against equality: incitement of hatred, violation of equality, and discrimination based on genetic risks. As compared to the previous report, the content of the relevant sections has somewhat changed and therefore we will present their full text below.

48. § 151. Incitement of hatred. (1) Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention. (2) Same act, if: 1) if it causes the death of a person or results in damage to health or other serious consequences, or 2) it was committed by a person who has previously been punished for such act, or 3) it was committed by a criminal organisation, – is punishable by money penalty or up to 3 years’ imprisonment. An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a fine of up to 50 000 kroons. An act provided for in subsection (2) of this section, if committed by a legal person, is punishable by a money penalty.

49. The NGO Legal Information Centre for Human Rights (LICHR) has noted positively that § 151 also establishes liability for legal persons. It is also positive that the elements of the offence include incitement to discrimination. However, the LICHR noted negatively that the section cannot be used with regard to hate speech in the media unless such speech results in serious consequences. The LICHR is of the opinion that it is necessary to reintroduce the possibility to prosecute persons under § 151 for using hate speech even in cases if it has not resulted in danger to a person’s life, health or property.

50. In response to LICHR’s criticism we would like to explain that exclusion of hate speech from § 151 in 2006 was intentional in order to avoid liability in situations where persons publicly express their opinion.

51. § 152. Violation of equality. (1) Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, financial or social status is punishable by a fine of up to 300 fine units or by detention. (2) The same act, if committed: 1) at least twice, or 2) significant damage is thereby caused to the legally protected rights or interests of another person or to public interests, is punishable by a money penalty or up to one year of imprisonment.

52. § 153. Discrimination based on genetic risks. Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her genetic risks is punishable by a fine of up to 300 fine units or by detention. (2) The same act, if committed: 1) at least twice, or 2) significant damage is thereby caused to the legally protected rights or interests of another person or to public interests, is punishable by a money penalty or up to one year of imprisonment.

53. Very few criminal offences based on ethnic, cultural, linguistic or religious grounds have been committed in Estonia. The relevant authorities deal with prevention and monitoring of the situation.

54. The LICHR has considered it important that police awareness of issues relating to human rights, tolerance and non-discrimination should be high, and has expressed concern that employees of the Police Board have not attended seminars or training events on these issues in the recent years.

55. Since 2005, 13 Estonian police officers have participated in civilian missions organised by the UN, OSCE, EU and other international organisations. One of the preconditions for participation in civilian missions is that prior to the mission the participants must complete training on issues of race in crisis areas and they receive guidance on how to act in such situations. This training is organised by police colleges of different countries in cooperation with the UN, the European Commission and other international organisations.

56. During the reporting period, Estonian police officers attended various international events dealing with issues of racial discrimination and combating it. For example, in 2005 a conference of coordinators of the Council of Europe European Platform of Police and Human Rights was held in Strasbourg in France where an officer from the Estonian Police Board also had a presentation. The European Police College (CEPOL) has organised different training events on human rights and police ethics which Estonian police officers have attended. Seminars organised by the International Organisation for Migration (IOM) have also covered issues of racial discrimination.

57. In 2005, a training seminar on police ethics was held in the premises of the Police Board in Tallinn with the participation of lecturers from the Pointman Leadership Institute in the UK. Representatives from other state agencies besides the police also attended the seminar. On the initiative of the police two conferences and one training seminar on police ethics have been held since 2005. In 2005, a training seminar on mistreatment on the grounds of race was organised on the initiative of the US Embassy where one police officer attended.

58. Since 2008, the Estonian police participate in the work of the support group EDPOL (European Diversity in Policing) where one of the topics also includes racial discrimination of the police.

## Article 5

### **The right to equal treatment before the tribunals and all other organs administering justice**

59. The Committee in paragraph 11 of its concluding observations expressed concern about the absence of comprehensive anti-discrimination legislation, in particular legislation and regulations in the civil and administrative fields, and recommended that Estonia should enact such legislation. In response to the Committee's concern we would like to stress that under § 12(1) of the Estonian Constitution everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. On that basis, everyone is entitled to non-discrimination and the courts apply arguments of equal treatment in all kinds of cases (see e.g. Supreme Court Constitutional Review Chamber judgment of 30 September 2008 No. 3-4-1-8-08 concerning calculation of a person's pension qualifying period depending on the place of referral to the service in the Soviet army; <http://www.nc.ee/?id=11&tekst=RK/3-4-1-8-08>).

60. The Constitution guarantees everyone's right to the protection of the state and the law. Everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional. This topic has been dealt with in more detail in Estonia's previous reports.

61. Justice is administered solely by the courts. The courts shall be independent in their activities and shall administer justice in accordance with the Constitution and the laws (§ 146 Constitution). Organisation of courts and the legal bases for court service are established by the Courts Act. Hereby we refer to Article 6 where the organisation of courts is described in more detail. Article 6 and 2 also explain in more detail the competence and activities of the Chancellor of Justice.

### **The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution**

62. The Committee in paragraph 13 of its concluding observations expressed concern that persons belonging to Russian-speaking minorities were disproportionately represented in the population of convicted prisoners, and recommended conducting a study to find adequate solutions to address this situation.

63. Estonian prisons do not maintain statistics based on the language spoken by prisoners. However, it is possible to distinguish prisoners by their citizenship. A study of the prison population by citizenship was conducted at the end of 2007 and it was found that the proportion of prisoners who are foreign citizens was smaller among prisoners than their proportion of the population as a whole. Only persons with undetermined citizenship were overrepresented among the prison population. In comparison to the 1990s, the proportion of Estonian citizens in prisons has risen. Partly the overrepresentation of persons with undetermined citizenship among prisoners is due to the large number of serious criminal offences in the 1990s. Persons who received heavy sentences at that time are still in prison. In comparison to the 1990s, the number of persons with undetermined citizenship has decreased several times among the Estonian population (they have received either Estonian or foreign citizenship). However, considering that carrying out procedures necessary for receiving citizenship is more complicated for prisoners, the current prison population to a certain extent still reflects the distribution of population in the 1990s. Currently, the distribution of new suspects and convicted offenders by citizenship is considerably more similar to their share in the population than their share of the total number of prisoners.

64. It should also be noted that under § 21(1) clause 4 of the Citizenship Act Estonian citizenship is not granted to persons who have 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 have been repeatedly punished under criminal procedure for intentionally committed criminal offences. Under § 21(1) clause 2, citizenship may also be refused to persons who do not observe the constitutional order and Acts of Estonia.

65. The Penal Code chapter on offences against administration of justice establishes liability for unlawful bringing of charges (§ 310), knowingly making of unlawful decision by judge or assistant judge (§ 311 and § 311<sup>1</sup> respectively), and knowingly making unlawful decision in misdemeanour proceedings by an official or employee of an authority conducting extra-judicial proceedings (§ 311<sup>2</sup>). The Penal Code also regulates liability of an official or employee of an authority conducting extra-judicial proceedings who knowingly and unlawfully terminates a misdemeanour proceeding, a prosecutor or official of an investigative body who knowingly and unlawfully terminates a criminal proceeding or a prosecutor who knowingly gives unlawful permission for termination of a criminal proceeding to an investigative body (§ 311<sup>3</sup>).

66. Criminal procedure is regulated by the Code of Criminal Procedure.

#### **Political rights, in particular the right to participate in elections**

67. Under the Constitution, the supreme power of the state is exercised by the people through elections of the Riigikogu and on referendums. Estonian citizens who are at least 18 years old may vote in the elections of the Riigikogu. Estonian and European Union citizens who are at least 18 years old may vote in the elections of local government councils. In the elections of local government councils, foreigners residing in Estonia on the basis of a long-term residence permit or permanent right of residence and who have lived in the respective rural municipality or city for at least five years may also vote. According to the law, voters must be registered in the Estonian population register.

68. As all persons permanently residing in Estonia, regardless of their knowledge of the Estonian language, are guaranteed the right to participate in local government elections, they have the opportunity to influence decisions taken on local level and to participate in political life. It should be noted that Estonia is one of the countries in the world where non-citizens may participate in the elections of local government councils.

69. Citizenship constitutes a close link between a person and the state and it is expressed in mutual rights and obligations. Persons who consider their link to Estonia important may receive citizenship by naturalisation and then have a say in national politics through participation in the elections of the Riigikogu. Persons who meet the criteria in § 6 of the Citizenship Act and in respect of whom no circumstances excluding the granting of citizenship under § 21 of the Act have been ascertained may receive Estonian citizenship by naturalisation.

70. Under the Local Government Organisation Act, not less than one per cent of the residents of a rural municipality or city with the right to vote, however not less than five residents with the right to vote, may initiate the passage, amendment or repeal of legislation of the rural municipality or city council or government concerning local issues; such initiatives shall be debated not later than within three months.

71. On 1 March 2007, an amendment to the Language Act (§ 23) entered into force which allows using a translation into a foreign language or a special regional linguistic form in Estonian on public signs, signposts, announcements, notices and advertisements alongside the original text in Estonian.

72. The amendment resolved a problem of interpretation as if posting of election advertising in languages of national minorities would be prohibited. The amendment expanded the possibility that in addition to election advertising all public information may be in a language other than Estonian.

73. The Committee has repeatedly expressed concern that only citizens may belong to political parties. We would have to refer to § 48 of the Constitution, which indeed establishes that only Estonian citizens may belong to political parties. This is a constitutional norm approved in a referendum.

#### **Other civil rights, in particular**

(i) *The right to freedom of movement and residence within the border of the State*

74. In addition to the information provided in the previous report (paragraphs 82 and 83), we would like to add the following:

On 1 August 2006, the new Citizen of European Union Act entered into force which brought the legal order in Estonia into line with the EU principles enabling EU citizens and their family members to use the right given to them by the founding treaties to move freely in the territory of the European Union.

75. On 1 June 2006, an amendment to the Aliens Act entered into force, harmonising the legal status and social guarantees of long-term residents who are third country citizens with those of the citizens of European Union member states. Third country citizens residing legally in the territory of a European Union member state are guaranteed living and working conditions which are as much as possible similar to the conditions applicable to citizens of the respective member state.

76. On 1 December 2007, an amendment to the Aliens Act entered into force, facilitating migration of students and researchers from third countries and ensuring uniform requirements for applying for a residence permit in member states. The amendment also excluded from the immigration quota foreigners who are granted a residence permit for study or for purposes of research activity.

77. While until now the immigration quota was 0.05% of the permanent population of Estonia annually, by the amendment of the Aliens Act on 14 June 2008 the quota was raised to 0.1% of the permanent population of Estonia.

78. There are still persons who may settle in Estonia outside of the immigration quota or to whom the immigration quota does not apply. For example, the immigration quota does not apply to the spouse of an Estonian citizen or of an alien who resides in Estonia on the basis of a residence permit, or to a minor or adult child, parent, grandparent or ward of an Estonian citizen or of an alien who resides in Estonia on the basis of a residence permit.

79. Regulative provisions concerning work and residence of foreigners in Estonia were also simplified. The relevant procedures were adjusted so that employers can react operatively and in a short time to changes in the need for labour.

80. On 1 February 2007, amendments to the Aliens Act entered into force, transposing to the Estonian legal order the EU directive on the residence permit issued in the case of essential public interest to persons who are victims or witnesses of trafficking in human beings.

81. In comparison to the previous reporting period, the regulative framework concerning refugees has changed. The Refugees Act was replaced by the Granting International Protection to Aliens Act which entered into force on 1 July 2006. The new law was drawn

up due to the need to harmonise EU Council directives and establish regulative provisions concerning temporary protection of aliens.

82. In connection with the entry into force of the Granting International Protection to Aliens Act, Estonia transposed the following EU directives:

- Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (the Temporary Protection Directive)<sup>1</sup>
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (the Reception Standards Directive)<sup>2</sup>
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (provisions relating to refugees)<sup>3</sup>
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (the Asylum Qualification Directive)<sup>4</sup>
- Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (the Asylum Procedures Directive)<sup>5</sup>

83. Asylum, i.e. refugee status, may be granted to aliens who have well-founded fear of being persecuted in their country of citizenship or country of permanent residence for reasons of race, religion, nationality, political opinion or membership of a particular social group. Aliens are entitled to subsidiary protection if their return or expulsion from Estonia may result in the consequences specified in Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms or Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or the application of death penalty in their country of citizenship or country of permanent residence. Based on an asylum application of a family member of a refugee or person enjoying subsidiary protection, similar protection and a residence permit with the same period of validity may also be given to a spouse or minor child of the person enjoying protection if the family existed in the person's country of origin, the applicant is staying in Estonia and no circumstances exist excluding the granting of protection.

84. With the entry into force of the Granting International Protection to Aliens Act, granting of temporary protection to aliens in Estonia was provided for. The previous Refugees Act only covered granting of the refugee status and subsidiary protection to aliens, but the granting of temporary protection was unregulated. The procedure for submitting of applications is now also regulated in more detail. If under the Refugees Act only one application form existed which was filled out by the official receiving the application in the form of an initial interview, under the Granting International Protection to Aliens Act three application forms exist: application for asylum, application for temporary protection and application for extending international protection. The application is filled out by the applicant himself or herself. Application forms exist in Estonian/English,

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<sup>1</sup> OJ L 212, 7.8.2001, p. 12.

<sup>2</sup> OJ L 31, 6.2.2003, p. 18.

<sup>3</sup> OJ L 251, 3.10.2003, p. 12.

<sup>4</sup> OJ L 304, 30.9.2004, p. 12.

<sup>5</sup> OJ L 326, 13.12.2005, p. 13.

Estonian/Russian and Estonian/French versions. This helps to improve effectiveness of asylum proceedings.

85. The Granting International Protection to Aliens Act established procedural deadlines. The previous Refugees Act did not provide for procedural deadlines. Under the Granting International Protection to Aliens Act, a decision with regard to an asylum application must be made within six months. If it is not possible to make a decision within this deadline, the applicant must be notified of the delay and of the expected time the decision would be made. The deadline for review of an application for residence permit under temporary protection is two months, and for review of an application for extending international protection three months.

86. With the entry into force of the Granting International Protection to Aliens Act, validity periods of residence permits granted under international protection were specified. A refugee is issued a residence permit for a period of three years, instead of the earlier two years. A person enjoying subsidiary protection is issued a residence permit for a period of one year, and a person receiving temporary protection for the period of temporary protection but for not longer than three years. Residence permits are also extended for periods of three years or one year respectively, and in case of temporary protection by six months at a time.

87. On certain conditions, asylum applicants may have access to the labour market. Previously, aliens who had been granted international protection could access the labour market only after receiving the residence permit. Now an asylum applicant may access the labour market if the Citizenship and Migration Board has not made a decision on the asylum application within one year as of the submission of the application due to reasons beyond the applicant's control. The work permit is issued by the Citizenship and Migration Board. The permit is valid until the end of the asylum proceedings, including during the court proceedings.

88. In 1997–2008, Estonia received asylum applications from 140 foreigners from 28 countries. The total number of applications was 148, eight applications being repeated applications. 14 applications were submitted in 2008 and 2007, 7 applications in 2006 and 11 applications in 2005. As at the end of 2008, asylum had been granted to 10 persons and subsidiary protection to 12 persons.

89. All border crossing points in Estonia are able to receive asylum applications and perform initial procedures required by law. To maintain the competence of the relevant officers, regular training on domestic legislation, international Conventions, EU directives and other international instruments is provided.

90. The Estonian authorities actively cooperate with several international organisations. Estonian representatives participate in the working groups of the European Commission and Council of Europe. There is also close cooperation with the International Organisation for Migration (IOM) and the Office of the UN High Commissioner for Refugees (UNHCR). Cooperation relationships with the competent migration and asylum authorities of many member states have been established. Estonia also participates in international and regional cooperation organisations.

91. In 2006, within the framework of the project administered by the International Organisation for Migration (IOM) and co-financed by the European Refugee Fund, "Minimum requirements for the reception, protection and qualification of asylum seekers in Estonia – MINAS", study materials on asylum procedures for border guard officers were compiled. Within the same project (in 2006 and 2007), training to border guard officers, officials of the Labour Market Board and the Citizenship and Migration Board was provided; several study visits to other countries were conducted; information materials for

asylum seekers were prepared and translated into eight languages; the new linguistically revised UNHCR handbook was published.

92. Since 2004, Estonia has had access to financing from the European Refugee Fund. With the help of the funds, several projects have been carried out, aimed at improving the reception conditions of asylum applicants and the efficiency of asylum proceedings, integration of persons who have been granted international protection, and voluntary return of foreigners belonging to the target group to their homeland.

(ii) *The right to leave any country, including one's own, and to return to one's country*

93. The main legal acts and principles regulating this area were presented under Article 5 of the penultimate report.

94. Under the Constitution, everyone has the right to leave Estonia. This right may be restricted in the cases and pursuant to procedure provided by law to ensure the administration of court or pre-trial procedure, or to execute a court judgment (§ 35). No Estonian citizen is expelled from Estonia or prevented from settling in Estonia (§ 36).

95. No Estonian citizen is extradited to a foreign state, except under conditions prescribed by an international treaty and pursuant to procedure provided by such treaty and by law. Extradition is decided by the Government of the Republic. Everyone who is under an extradition order has the right to contest the extradition in an Estonian court. Every Estonian has the right to settle in Estonia (§ 36).

(iii) *The right to nationality*

96. The Committee in its concluding observations (paragraph 15) recommended making further efforts to enhance and facilitate access to the naturalisation process. The Committee also recommended that Estonia should consider providing to all citizenship applicants high-quality and free-of-charge language courses, and strengthen awareness-raising of the naturalisation procedure and its benefits.

97. Although the Citizenship Act has been amended during the reporting period, the main principles for receiving Estonian citizenship remain the same. We would like to provide the following information in addition to what was explained in the previous reports.

98. On 8 July 2006, an amendment to the Citizenship Act entered into force, aimed at harmonising the system of definitions and bringing the Citizenship Act in line with the amendments made to the Aliens Act and the new Citizen of European Union Act which entered into force on 1 August 2006. Also, a provision was added to the Citizenship Act, establishing the right of discretion for the Government in granting and restoring Estonian citizenship in respect of persons who have been repeatedly punished for committing intentional criminal offences and whose criminal record has expired. The aim is to avoid disproportionate decisions in refusing Estonian citizenship to persons due to a lack of the right of discretion. Exercising the right of discretion by the Government provides a possibility to assess the severity of the actual criminal offence and weigh the values protected by criminal law.

99. Several steps have been taken to raise interest in and motivation for applying for Estonian citizenship. The main reason why people have not applied for citizenship is the lack of motivation. The lack of motivation is partly due to the fact that persons with undetermined citizenship who are long-term residents of the European Union are guaranteed the freedom of movement in countries which have joined the Schengen agreements for abolition of controls on common internal EU borders, and they also have the right to live and work in other EU member states. Since June 2008, persons with undetermined citizenship may enter the Russian Federation without a visa.



100. As at 28 February 2009, there were 109 728 persons with undetermined citizenship in Estonia. Their proportion among the Estonian population has steadily decreased.

101. Obtaining Estonian citizenship for minor children is easy. Parents with undetermined citizenship only have to express the wish to obtain Estonian citizenship for their child. Although under the Citizenship Act simplified procedure exists for applying for Estonian citizenship for a child under 15 years old, not all parents are aware of their rights and possibilities. Therefore, in 2007, an active awareness-raising campaign was launched with the aim to reduce the number of children with undetermined citizenship. The target group of the campaign are minors with undetermined citizenship and their parents. Currently there are plans to improve and intensify the awareness-raising campaign, and possibilities of personal counselling for persons with undetermined citizenship are being sought.

102. Since February 2008, parents of children with undetermined citizenship are informed upon registration of the child's birth that they may apply for Estonian citizenship for their child under a simplified procedure. Parents are given an information leaflet explaining the process of applying for Estonian citizenship and they are asked to fill out a notification form stating that they have been explained the possibility to apply for Estonian citizenship for their child and whether they agree that the Citizenship and Migration Board would contact them and provide more detailed individual advice. During the counselling, parents are also explained what possibilities exist for applying for Estonian citizenship for themselves.

103. In October 2008, information sessions in schools where children with undetermined citizenship attend were started. During the sessions, brochures explaining the benefits of Estonian citizenship are distributed and the possibilities for receiving Estonian citizenship for different age groups are described. There are plans to provide this information in 61 schools.

104. Of all the citizenship applicants, children under the age of 15 constitute 40%. Practically no cases of refusal to grant citizenship occur with regard to them. Only in exceptional cases, the application procedure had to be terminated for the reason that the child was not relieved of his or her existing citizenship.

105. The number of children with undetermined citizenship under 15 years old has constantly decreased in Estonia. While in 2005 there were 6451 of such children, as of 11 March 2009 there were 2775 children with undetermined citizenship under 15 years old in Estonia.

106. In 2008, the tradition of festive ceremonies for presenting citizenship certificates was started with the aim to raise civic pride and awareness of the rights and duties of being a citizen. In 2008, ten ceremonies were held with approximately 600 new Estonian citizens receiving their certificates.

107. In 2009, a project "The development of information exchange between the Citizenship and Migration Board" is launched with the aim to obtain information about all children born in Estonia and their parents. Based on this information, parents of new-born children will be notified about the need to legalise the residence of their children in Estonia. Through the project, it is intended to explain to parents that they can apply for Estonian citizenship for their child during the child's first year of life without first having to apply for a residence permit or right of residence for their child.

108. On 25 September 2008, the Government by its Regulation No. 143 approved "The procedure for the examination of the knowledge of the Estonian Constitution and the Citizenship Act for citizenship applicants" which entered into force on 1 March 2009.

109. The new examination model aims to make the examination and its preparation more practical, i.e. main attention would be paid to applying the Constitution in daily life and to understanding the meaning and principles of the law. Examination questions would be made more meaningful but at the same time easily understandable also for people with limited knowledge of the language. As a new possibility, the examinee will be able to challenge the examination result. The new regulation also provides a possibility to organise examinations according to the need, only laying down the minimum number of examinations per year (12 examinations). Under the previous regulation, examinations could be organised once a month but the need for them was significantly higher. The new regulation also contains amended provisions on taking the examination as part of the national examination on civic studies in the upper secondary school and as part of the final examination on civic studies in the basic school. The previous version of the regulation interfered strongly with the content of the civic studies examination. Now the advantage is that the result of the examination on the knowledge of the Estonian Constitution and the Citizenship Act does not affect the result of the national examination in the upper secondary school or the final examination in the basic school, thus motivating pupils to choose the combined examination.

110. Since 2009, everyone who passes the language examination is entitled to reimbursement of the money spent on language learning. The reimbursement is made through the National Examinations and Qualifications Centre from the funds allocated by the European Social Fund. As of autumn 2009, free-of-charge courses for non-citizens are started. Participation in the course does not presume applying for citizenship. The courses would be financed by the European Integration Fund (EIF).

111. By the order No. 172 of 10 April 2008, the Government approved the “Estonian integration strategy 2008–2013” and its implementing plan 2008–2010. The integration strategy is a continuation to the national programme “Integration in Estonian society 2000–2007”. The aim of the integration strategy is to support the feeling of solidarity among all permanent residents through the sharing of common values of Estonian society and knowledge of the state language. As a result of successful integration, all individuals would be able to realise themselves and feel secure by participating in the economic, social, political and cultural life of society. Since April 2007 (under the order No. 60 of 12 April 2007 of the Prime Minister), the Minister for Population and Ethnic Affairs is responsible for integration issues and drawing up the development plan in the relevant fields.

112. One of the aims of the integration strategy is to achieve a situation by 2013 where the proportion of people with undetermined citizenship among the Estonian population has steadily decreased. About the integration strategy in general, see paragraphs 36–40 under Article 2.

- (iv) *The right to marriage and choice of spouse*
- (v) *The right to own property alone as well as in association with others*
- (vi) *The right to inherit*
- (viii) *The right to freedom of opinion and expression*

113. The main legal acts and principles regulating this area were presented under Article 5 in the fifth report. We would like to point out some of the main changes that have occurred.

114. Amendments to the Weapons Act were introduced. Subject to an age limitation, Estonian citizens may acquire, own and possess all types of weapons permitted to be used for civilian purposes, except truncheons.

115. A foreigner holding a residence permit in Estonia or staying in Estonia based on the right of residence may acquire, own and possess all weapons permitted for Estonian citizens if he or she has been issued a permit for the relevant type of weapon by a competent authority of another state and, on this basis and under the prescribed procedure, a weapons permit has been issued to the foreigner in Estonia.

116. A foreigner holding a residence permit in Estonia or staying in Estonia based on the right of residence who does not hold a weapons permit issued by a competent authority of another state may acquire, own and possess the weapons permitted for Estonian citizens if he or she has been issued a weapons permit in Estonia on the relevant bases and pursuant to the prescribed procedure.

117. All persons may acquire immovables unless otherwise established by the law. The Restrictions on Acquisition of Immovables Act establishes restrictions on the acquisition of immovables arising from public interest. Public interest means, in particular, development of the management for specific purposes of immovables used as profit yielding land which contain usable agricultural area or parcels of forest land, in the case of which certain requirements have been established which foreigners must meet.

118. If a person does not meet these requirements they can acquire an immovable used as profit yielding land that includes 10 ha or more of agricultural or forest land only with the authorisation of the county governor.

119. The Act establishes additional restrictions on acquiring immovables in border area municipalities and on small islands. The restriction applies to all persons who are not Estonian citizens. However, for important national policy reasons the Government may give authorisation to other persons for acquiring an immovable in border municipalities and on small islands.

120. Under § 27 of the Law of Succession Act in force since 1 January 2009, a minor who is at least 15 years of age may make a will in notarised form without the consent of his or her legal representative.

121. With regard to the freedom of opinion no changes of principle have occurred. On 1 November 2008, the new Advertising Act entered into force. Under the new Act, advertising may not contain denigration or discrimination on the grounds of nationality, race, age, colour, sex, language, origin, religion, political or other opinion, financial or social status or other circumstances.

122. After the submission of the previous report, public broadcasting organisations Estonian Television and Estonian Radio were merged. Their legal successor organisation is the Estonian National Broadcasting (*Eesti Rahvusringhääling*).

123. On 1 June 2007, the National Broadcasting Act entered into force. Under the Act, programme services and media services must meet the objectives of National Broadcasting and serve the public interest. The programme services must be diverse and deal with the topics of social life in a balanced manner. The programme services and media services must promote communication between members of society and social groups, the social cohesion of society, and must reflect different opinions and beliefs.

124. Conformity of the operation of National Broadcasting with the professional ethics and good practices of journalism is monitored by the ethics adviser. The ethics adviser reviews the objections and challenges submitted against the content of a programme or programme service of National Broadcasting and monitors the balance of the programme service.

(vii) *The right to freedom of thought, conscience and religion*

125. Freedom of religion in Estonia is guaranteed by the Constitution, as well as the Churches and Congregations Act and other legislation.

126. Under the Constitution, restrictions on the exercise of religion are allowed for the protection of public order, health and morals. No restrictions exist on the freedom of conscience, religion and thought, whereas § 40(1) of the Constitution protects both religious and non-religious views. If a person's views and internal convictions develop into expression of the views or realisation of the thoughts, the above-mentioned restrictions may apply. With regard to a person's rights under § 41 of the Constitution, the only restriction is that beliefs shall not excuse a violation of the law. At the same time, the state may not impose liability merely for holding of beliefs. The right to remain faithful to one's opinions and beliefs is additionally protected by § 12 of the Constitution which prohibits discrimination on the basis of political or other opinion and states that incitement of political hatred, violence and discrimination is punishable.

127. Under § 11 of the Child Protection Act, the child has the right to freedom of thought, conscience, religion and expression. The child has the right and shall be accorded the opportunity to seek, receive and impart diverse humanistic information and to engage in organisations and movements.

128. Under § 4(4) of the Education Act, the study and teaching of religious education is voluntary.

129. Under § 3(4) of the Basic Schools and Upper Secondary Schools Act, religious education shall be non-confessional. A school is required to teach religious studies if at least fifteen students in a stage of study so wish.

130. Under the Equal Treatment Act, discrimination of persons on the grounds of religion is prohibited in relation to conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion; entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination of employment contracts or contracts for the provision of services, release from office; access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience, and membership of, and involvement in, an organisation of employees or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations.

131. The purpose of the Churches and Congregations Act is to establish the procedure for membership of churches, congregations, associations of congregations, monasteries and religious societies and the regulation of their activities in order to enable everyone to exercise the freedom of religion as enshrined in the Constitution.

132. Religious associations are churches, congregations, associations of congregations and monasteries (§ 2). A religious society is a voluntary association of natural or legal persons the main activities of which include confessional or ecumenical activities relating to morals, ethics, education, culture and confessional or ecumenical diaconal and social rehabilitation activities outside the traditional forms of religious rites of a church or congregation and which need not be connected with a specific church, association of congregations or congregation (§ 4(1)).

133. Section 8 of the Churches and Congregations Act lays down the rights of individuals: every person has the right to freely choose, profess and declare his or her religious beliefs unless it damages public order, health, morals, or the rights or freedoms of

others. No one is required to provide information on his or her religion or membership in congregations, except a suspect, accused, accused at trial or victim in the course of criminal proceedings. Every person has the right to leave a congregation if he or she notifies the management board of the congregation of his or her decision beforehand. Every person has the right to leave a monastery if he or she notifies the superior of the monastery of his or her decision beforehand. The guardian of a person who has been divested of active legal capacity does not have the right to change the religion or membership in a congregation of the person. Every person has the right to be buried according to his or her confession. In the absence of relatives, guardians or curators, and if it is known that a deceased person was a member of a congregation, the congregation of the deceased person shall perform the confessional funeral service.

134. Persons staying in medical institutions, educational institutions, social welfare institutions and custodial institutions and members of the Defence Forces have the right to perform religious rites according to their faith unless this violates public order, health, morals, the rules established in these institutions or the rights of others staying or serving in these institutions (§ 9(1)). A religious association shall conduct religious services and religious rites in a medical institution, educational institution or social welfare institution with the permission of the owner or the head of the institution, in a custodial institution with the permission of the director of the prison, in the Defence Forces with the permission of the commanding officer of the military unit and in the National Defence League with the permission of the chief of the unit (§ 9(2)).

135. Every person of at least fifteen years of age may independently become a member of a congregation or leave a congregation pursuant to the procedure prescribed in the statutes. A child who is less than fifteen years of age may be a member of a congregation with the permission of his or her parents or guardian (§ 10).

136. Under the Churches and Congregations Act, 9 churches, 9 associations of churches, 70 individual congregations and 7 monasteries operate in Estonia. Religious associations are not required to inform the state about the number of their members or provide data about the national composition of the members. The statistical data on the membership of churches and congregations in the following tables are based on information voluntarily submitted in response to the enquiry by the religious affairs department of the Ministry of Internal Affairs.

Table 1  
**Churches**

<i>Name</i>	<i>Members</i>	<i>Congregations</i>
Orthodox Church of Estonia*	ca 25 000	61
Estonian Evangelical Lutheran Church*	ca 180 000	164
Estonian Christian Pentecostal Church*	ca 4 500	32
Charismatic Episcopal Church of Estonia*	300	3
Estonian Charismatic Communion Church	503	3 + 3**
Estonian Methodist Church*	1 737	24
Estonian Orthodox Church of Moscow Patriarchy*	ca 170 000	30
Roman Catholic Church*	ca 6 000	9
New Apostolic Church in Estonia	2 217	3 + 15**

**Associations of congregations**

<i>Name</i>	<i>Members</i>	<i>Congregations</i>
Estonian Conference of Seventh-day Adventists Church*	1 711	19
Union of Baha'i Congregations in Estonia	142	5
Union of Evangelical Christian and Baptist Churches of Estonia*	5 974	83
Union of Evangelical Christian Pentecost Congregations in Estonia	ca 1 000	3
Union of Evangelical and Free Congregations in Estonia	ca 1 000	6
Union of Congregations of Jehovah's Witnesses in Estonia	4 248	4 + 51**
Union of Estonian Christian Free Congregations	ca 350	6
Union of Old Believer Congregations of Estonia	ca 15 000	10 + 1**
The House of Taara and Mother Earth People of Maavald		4

**Individual congregations** (information has not been asked from all the congregations in the register)

<i>Name</i>	<i>Members</i>	<i>Congregations</i>
Estonian St. Gregory Congregation of the Armenian Apostolic Church*	2 030	1 + 5**
Estonian Buddhist Congregation <i>Drikung Kagyu Ratna Shri</i> Centre	34	1
Estonian Islamic Congregation	ca 1 400	1
Jewish Religious Community of Estonia	ca 2 500	1
Estonian Evangelical Brotherhood Congregation	142	1
Tallinn Congregation of "Evangelical Christians of the Apostles' Creed"	50	1
Krishna Consciousness Tallinn Congregation	ca 150	1
Tibetan Buddhism <i>Nyingma</i> Estonian Congregation	less than 20	1
Tallinn Congregation of the Greek Catholic Church	318	1
Estonian Congregation of the Church of Jesus Christ of Latter Day Saints	803	1

\* Data concerning religious associations as at 1 January 2008; in the case of others as at 1 January 2007.

\*\* The first number refers to congregations entered in the register and enjoying the status of a legal person, the second number refers to congregations which the religious association has not wished to enter in the register and which have thus no legal personality.

Table 2

**Monasteries and convents**

<i>Name</i>	<i>Members</i>
Monastery of the Dominican Order in Tallinn	3 monks
Convent of the Order of Missionaries of Charity in Tallinn	4 nuns
Convent of St. Felice da Cantalice Congregation in Ahtme	2 nuns
Convent of St. Felice da Cantalice Congregation in Narva	2 nuns
Convent of the Roman Catholic Church of Immaculate Conception of the Blessed Virgin Mary in Tartu	3 nuns
Convent of the Bridgettine Order in Piritä	8 nuns
Pühtitsa Dormition Stavropegic Convent in Kuremäe*	174 nuns

\* Refers to an Orthodox convent (within the canonical jurisdiction of the Patriarch of Moscow and All Russia); the other convents and monasteries are Roman Catholic.

137. In addition to sections of the Penal Code mentioned under Article 4 (§ 151 and 152), the Code also imposes criminal liability for the following acts against freedom of religion:

- Interference with the religious affiliation or religious practices of a person, unless the religious affiliation or practices are detrimental to the morals, rights or health of other people or violate public order, is punishable by a money penalty or up to one year of imprisonment (§ 154 Penal Code)
- Compelling a person to join or be a member of a religious association or a political party is punishable by a money penalty or up to one year of imprisonment (§ 155 Penal Code)

138. After the submission of the previous report, amendments have been introduced to the Government Regulation No. 317 of 9 October 2001 “The conditions and procedure for transfer of the functions of a vital statistics office in connection with the contraction of marriages to a minister of a church, congregation or association of congregations”. Since 2005, the Minister of Regional Affairs may grant the right of performing the functions of a vital statistics office to a minister of religion with appropriate training. Previously, the Minister of Internal Affairs had this right. As of the same time, the Minister of Regional Affairs also became responsible for establishing the form of certificate on completion of the training and the membership of the certifying committee.

139. Vital statistics office of the location of the relevant congregation provides guidance to ministers of religion on issues concerning contraction of marriages. The minister registers the marriage and issues a marriage certificate to the spouses. The minister submits the marriage documents immediately or within three working days to the vital statistics office of the location of the congregation of the spouses which then verifies compliance of the marriage registration to the applicable legislation.

140. Under the Family Law Act, a minister of religion of a church, congregation or association of congregations who has been granted the right to contract marriages has the right to refuse to contract a marriage if a prospective spouse does not meet the requirements for the contraction of marriage according to the religion of the church, congregation or association of congregations.

Table 3

**Marriages and divorces 2003–2007**

	2003	2004	2005	2006	2007
Marriages	5 699	6 009	6 121	6 954	7 022
Divorces	3 973	4 158	4 054	3 811	3 809

Of the total number of marriages, ministers of religion contracted 407 marriages in 2003, 447 marriages in 2004, 440 marriages in 2005 and 499 marriages in 2006.

(viii) *The right to freedom of opinion and expression*

141. The freedom of speech in Estonia is guaranteed under § 45 of the Constitution, and the right to receive information under § 44.

142. In its judgment of 19 February 2008 (civil case No. 3-2-1-145-07), the Supreme Court explained that imposing on a publisher the obligation to refute or correct incorrect information is a proportionate encroachment upon the freedom of the press. The freedom of

expression (freedom of speech) contrasts with the individual's right to honour and good name. Under the law, everyone may demand from a person responsible for publication of incorrect information that the information should be refuted or corrected at the expense of the publisher, regardless of whether the publication was unlawful and regardless of whether the published claim was defamatory to the person's honour and good name. What is important is the incorrectness of the claim. This conforms to the second sentence of § 45(1) of the Constitution which permits restricting the freedom of expression by law to protect the rights, including the good name, of others.

143. The freedom of expression is not absolute. Restrictions exist, for example, under the State of Emergency Act and the War Time National Defence Act. The prohibition of incitement of hatred (§ 151 Penal Code) also constitutes a restriction of the freedom of expression.

144. The freedom of expression is also restricted in connection with minors. Under § 179 of the Penal Code, handing over, displaying or otherwise knowingly making available pornographic works or their reproductions to a person under 14 years of age, or engaging in sexual intercourse in the presence of such person or knowingly sexually enticing such person in any other manner is punishable by a money penalty or up to one year of imprisonment. The same acts committed by a legal person are punishable by a money penalty. Under § 180 of the Penal Code, handing over, displaying or otherwise making knowingly available works or reproductions of works promoting violence or cruelty to a person under 18 years of age, killing or torturing an animal in the presence of such person without due cause or knowingly exhibiting violence to him or her in any other manner is punishable by a money penalty or up to one year of imprisonment. The same acts committed by a legal person are punishable by a money penalty.

145. Supervision over the press is still performed by the Press Council established by the Estonian Newspapers Association in 2002. The Press Council offers the readers a possibility for extrajudicial settlement of conflicts with the press. Besides representatives of the press, the Press Council also includes representatives from sectors outside the media sphere. The Press Council has ten members.

146. The Press Council hears complaints from readers about materials published in the press. In comparison to the courts, the proceedings in the Press Council are speedy and free of charge. Newspapers undertake to publish a condemning decision by the Press Council. Decisions of the Press Council must be published in unchanged form without any additional comments by the editors. The Estonian Television and the Estonian Radio undertake to broadcast a condemning decision of the Press Council. All decisions of the Press Council are published on the Internet on the website of the Estonian Newspapers Association under the section on the Press Council.

Table 4

**Press Council statistics**

(Statistics 2003–2008 (as at 25 April 2008))

	2003	2004	2005	2006	2007	2008
Complaints	33	32	45	35	24	17
Phone enquiries	239	203	206	293	317	
E-mail enquiries	9	34	12	24	28	
Decisions	14	33	34	27	21	13
Of them:						
acquitting	6	18	22	16	14	8
condemning	8	15	12	11	7	5



	2003	2004	2005	2006	2007	2008
Preliminary settlements		1	0	3	0	0
withdrawn				1	0	1
No decision				3	0	1
rejected		4	8	4	3	2
pending at the end of the period		2	5	2	2	4

(ix) *The right to freedom of peaceful assembly and association*

147. Public assemblies in Estonia are regulated by the Public Assemblies Act. The purpose of the Act is to guarantee the right of people to assemble and hold meetings in compliance with fundamental rights, freedoms and duties and the principles of a democratic state based on rule of law. The Act also provides for the restrictions of organising and holding public assemblies which are necessary to guarantee national security, public order, morality, traffic safety and safety of participants in the assembly and to prevent the spreading of infectious diseases.

148. It is prohibited to organise a public assembly which:

(1) Is aimed against the independence and sovereignty of the Republic of Estonia or at violent change of the current system of government;

(2) Incites to violently infringe the territorial integrity of the Republic of Estonia;

(3) Incites to hatred, violence or discrimination on the grounds of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status.

149. Organiser of a public assembly must submit a notice of organising the assembly to the duly authorised competent official of a government agency or rural municipality or city agency. The official accepts the notice and immediately gives the organiser a note of registration of the notice of public assembly. If the notice of public assembly has not been submitted in conformity with the requirements of the law or if at the same time and in the same place or on the same movement route another public assembly has been registered earlier the official may refuse to register the notice. The official would immediately issue a note on refusal to the organiser. Holding a public assembly is prohibited if notice of public assembly was not registered.

150. Section 14<sup>2</sup> of the Public Assemblies Act establishes consequences for violation of the requirements of holding public assemblies. Organising a public assembly in violation of the requirements or holding a public assembly the notice of which was not registered or holding of which was prohibited by a reasoned decision is punishable by a fine of up to 200 units.

151. Under § 265 of the Penal Code (unauthorised public assembly), organising an unauthorised public assembly or incitement to participation in such an assembly is punishable by a money penalty or up to one year of imprisonment.

**Economic, social and cultural rights, in particular**

(i) *The rights to work, to free choice of employment, to just and favourable conditions of work, etc.*

152. The right to work is guaranteed under the Constitution which establishes that an Estonian citizen has the right to freely choose his or her area of activity, profession and place of work. Citizens of foreign states and persons with undetermined citizenship who are

in Estonia have this right equally with Estonian citizens, unless otherwise provided by law. Prohibition of discrimination in areas concerning employment is regulated in more detail by the Labour Contracts Act, the Labour Market Services and Support Act, the Wages Act and other legislation. An overview of the above-mentioned Acts was provided in Estonia's fifth report. The Equal Treatment Act that entered into force on 1 January 2009 also regulates equal treatment in employment.

153. In response to the Committee's recommendation in paragraph 16 of the concluding observations that legislation prohibiting discrimination in employment and all discriminatory practices in the labour market be fully implemented in practice and that further measures be taken to reduce unemployment, we will provide an overview of the general situation on the labour market, including the situation of non-Estonians.

154. In 2007, the rate of employment in the age group 15–64 was 69.1% and the rate of unemployment 4.7% in Estonia. In 2008, the rate of employment in the age group 15–64 was 69.5% and the rate of unemployment 5.5%. Increase of the rate of unemployment can be explained by the effect of the global financial crisis on the labour market. However, high level of employment in all age groups is still a positive indicator. Optimum employment of the working age population is often impeded by the poor knowledge of the state language. According to a survey carried out in 2005, 42% of non-Estonians considered their knowledge of Estonian either good or very good. In the recent years, the knowledge of Estonian among adult non-Estonian population has been stable, and has increased among young people. At the same time, unemployment among non-Estonians (6.9% in 2007 and 8.2% in 2008) is higher than among Estonians. However, as the rate of employment among non-Estonians is on the same level with Estonians, the higher registered rate of unemployment among non-Estonians is rather due to their increased willingness to register as unemployed. Nevertheless, in order to improve the competitive ability of non-Estonians, it is necessary to raise their proficiency in Estonian in addition to raising their employment-related capacity. There are plans in the nearest years to carry out Estonian language training, as well as Estonian language training integrated with professional training, and labour exchange programmes.

155. As was already mentioned under point d subsection iii (paragraph 110) under Article 5, possibilities for learning Estonian have been expanded and since autumn 2009 language courses are free of charge for those who wish (up to 400 people per year).

156. Labour market policy in Estonia is prepared by the Ministry of Social Affairs. In providing labour market services, the Ministry has taken steps to pay particular attention to regions with higher unemployment and to target groups with a higher risk of unemployment.

157. Until now the labour market policy was mostly implemented by the Labour Market Board but from 1 May 2009 this institution is closed down and its functions are taken over by the public Estonian Unemployment Insurance Fund. The Fund will guarantee provision of all the services and benefits to people and the current county service network is maintained. For people, the situation would become clearer – all labour market measures (both active and passive) are provided by the same institution.

158. The Labour Market Board and its successor, the Estonian Unemployment Insurance Fund organise training courses, including Estonian language training as well as specialist training, on the labour market to raise the competitive ability of national minorities. Unemployed persons without the knowledge of Estonian may also use other labour market services: they can participate in career counselling or work practice, apply for start-up assistance for setting up a business, participate in coaching for working life or public work or become employed through wage subsidy paid to employers, and four specific services are provided to people with disabilities.

159. In order to find out obstacles to access to the labour market, an individual job-seeking action plan is drawn up for each unemployed person. In drawing up the plan, the person's knowledge of languages is also analysed, and if the knowledge of Estonian is needed in the speciality where employment is sought, the person is referred to an Estonian language training course. Many specialist training courses are also commissioned by the state in Russian.

160. Since January 2008, the Labour Market Board implements the programme "Increasing the supply of qualified labour 2007–2009" which also includes a separate sub-programme for the teaching of Estonian due to the large proportion of unemployed persons who do not speak Estonian. Together with the money from the European Social Fund, the programme has a total of 25 million kroons for language learning courses. As of 2010, the Estonian Unemployment Insurance Fund will continue implementing the new programme involving improved activities.

161. At the same time, lack of knowledge of Estonian is not a significant factor lowering the competitive ability on the labour market everywhere in Estonia. For example, in Ida-Viru County where in some localities the Russian-speaking inhabitants make up more than 90% of the population the knowledge of Estonian is not a determinant factor in access to the labour market. Definitely, the knowledge of Estonian is significant elsewhere in Estonia and in particular in the service sector. As the younger generation of Estonians do not speak Russian so well any more, and in the service sector the knowledge of both languages is essential, native Russian speakers with the knowledge of Estonian are to a certain extent in a preferential situation on the labour market.

162. On 26 June 2008, the regulation "Requirements for the Estonian language proficiency and use of the Estonian language for public servants, employees and self-employed persons" entered into force, specifying the levels of language proficiency for different professions. The language certificates issued before entry into force of the new regulation remain valid. The certificates issued before 1 July 1999 remain valid for persons currently employed and who continue their employment. In case where higher requirements for a post were established, a transitional period until 1 July 2010 is provided for. Supervision over language proficiency is performed by the Language Board. The Labour Market Board in its work intermediation activities observes the requirements of the regulation, but the final decision with regard to a job seeker is made by the employer. If possible, job vacancies requiring the knowledge of Estonian are sometimes filled with people whose Estonian language proficiency does not fully meet the required level because it is subsequently possible for them to raise their language proficiency in the course of the actual work.

163. The Estonian integration strategy 2008–2013 aims to reach a situation by 2013 where Estonian language proficiency among people whose mother tongue is not Estonian has improved on all levels and differences in employment and income of employees of different nationalities have reduced.

164. Clear distribution based on gender can still be seen on the labour market in Estonia. Women are in the majority in occupations in the social sphere, in health care and in education. Men, on the other hand, dominate in construction industry, energy and transport. The number of men is significantly higher in leadership positions, such as legislators, higher officials and chief managers, but also among skilled workers and craftspersons and equipment and machine operators. Women are in the majority among the service and sales staff, officials and top specialists. Gender distribution of the labour market, in turn, has an impact on wage differences between women and men. For example, the difference in the average gross hourly wage was 30.3% in 2007.

165. Comparing the rate of employment among Estonians and non-Estonians, it could be noted that in the age group of 15–74 the rate of employment in 2007 was the highest among non-Estonian men (68.5%) and slightly lower among Estonian men (67%), followed by Estonian women (59.8%) and non-Estonian women (55.7%).

166. In 2008, employment among Estonian men and non-Estonian women increased, while decreasing among Estonian women and non-Estonian men. In the age group 15–74, the rate of employment in 2008 was as follows: Estonian men 68.3%, non-Estonian men 66.9%, Estonian women 59.3% and non-Estonian women 57.3%.

167. In order to reduce gender inequality in employment, the Estonian-French twinning project “Equality between men and women – principle and goal for effective and sustainable enterprises” was carried out within the framework of the EU Transition Facility 2006 in 2007–2008. The aim of the project was to increase awareness among private sector entrepreneurs about legal norms, policies, measures and good practice in promoting gender equality in enterprises.

168. Estonia has planned its main activities for reducing gender inequality in employment and promoting gender equality in the next couple of years within the programme “Promoting gender equality 2008–2010” financed by the European Social Fund under Priority axis No. 3 “Good-quality and long working life”, measure “Gender mainstreaming”, under the Operational Programme for Human Resource Development. The aim of the activities is also to increase people’s awareness about their rights and obligations and to create conditions for reducing the wage gap.

169. In addition to the above, some of the main topics in 2006–2008 have included preventing and combating violence in intimate relationships and fighting trafficking in human beings.

170. Since 2006, the Ministry of Social Affairs is drawing up a development plan for preventing and combating violence in intimate relationships. The aim of the development plan is to devise a common coordinated policy to prevent and combat violence in intimate relationships in 2008–2011 and to harmonise the development guidelines in this field with the objectives set by the European Union and the United Nations.

171. Fight against trafficking in human beings is based on the Development Plan for Combating Trafficking in Human Beings 2006–2009. Implementation of the plan is coordinated by the Ministry of Justice. The overall aim of the development plan is to improve the fight against human trafficking. In the period 2006–2008 the following activities were carried out: 1) several surveys were conducted, including a survey on awareness of young people, survey of purchasers of sex services, survey on persons involved in prostitution, opinion polls, etc.; 2) lectures for informing the public and training courses for specialists were held (including workers in shelters, social workers, victim support and youth workers, lawyers, police officers); 3) roundtable meetings of the national cooperation network were organised; 4) Estonian representatives participate actively in international projects and the Council of the Baltic Sea States Task Force against Trafficking in Human Beings; 5) a counselling line for the prevention of human trafficking was operational; 6) a rehabilitation centre for trafficked women and women involved in prostitution, and women’s shelters were active; 7) information materials were actively distributed.

172. In addition to gender equality related activities, we would point out that 2007 was the European Year of Equal Opportunities. Estonia’s objective for this year was to raise the awareness of minorities and other population groups about the right to equal treatment and also collect information about the existence of unequal treatment. Focus was on unequal treatment on the grounds of sex, race, ethnic origin, religion or belief, disability, age and sexual orientation. Partners and interest groups from all over Estonia were involved in

planning and carrying out the activities within the year. The opening conference of the year was focused on the work of equal treatment ombudsmen while the final event dealt with the concept of discrimination.

173. Within the framework of the Year of Equal Opportunities, several surveys commissioned by the Ministry of Social Affairs were carried out, various events were held, different organisations had possibilities to carry out small projects involving events, seminars and lectures, and study materials were published. Among the surveys it is worth mentioning the survey "Situation of women of national minorities on the Estonian labour market" carried out by the PRAXIS Centre for Policy Studies, and the survey "Women in Estonian Roma communities" carried out by the Civil Society Research and Development Centre of the Tallinn University Estonian Institute of Humanities. General attitudes in society and experience of discrimination were studied in a separate survey aimed at finding out the extent and spread of unequal treatment, people's experiences of discrimination, their awareness about their rights and possibilities to get assistance. The survey "Unequal treatment on the grounds of a person's qualities or social position" was carried out by the Civil Society Research and Development Centre of the Tallinn University Estonian Institute of Humanities and the polling company *Turu-uuringute AS*.

174. Information about the wage level of ethnic groups is not collected in Estonia. Data about a person's ethnic nationality are considered sensitive personal data and the existence of a basis prescribed by law is needed to collect such data. Data about the size of wages are collected only by area of activity.

175. In Estonia as a whole, positive developments have occurred on the labour market in the recent years, which has also had a positive impact on the employment situation of non-Estonians. However, statistics for 2008 are beginning to reflect the impact of the financial crisis. Nevertheless, in comparison to the previous period, the gap in unemployment has been reduced significantly – if until now it was constantly more than two-fold, in 2007 and 2008 it was already smaller.

Table 5

**Labour force, unemployed persons, rate of employment and unemployment among Estonians and non-Estonians in the age group 15–74 in 2004–2008**

		2004	2005	2006	2007	2008
Estonians	Labour force, thousand	426.4	433.5	460	459.5	463.3
	unemployed, thousand	27.4	22.9	18.6	16.3	19.3
	Rate of employment, %	58.5	58.7	62.8	63.2	63.5
	Rate of unemployment, %	6.4	5.3	4	3.6	4.2
Non-Estonians	Labour force, thousand	232.8	226.1	226.7	227.9	231.6
	unemployed, thousand	36.3	29.3	21.9	15.7	19.1
	Rate of employment, %	53.8	56.3	59.2	61.5	61.8
	Rate of unemployment, %	15.6	12.9	9.7	6.9	8.2

*Source:* Statistics Estonia, Estonian labour force survey.

176. On the one hand, the rapid economic development of the recent years and, on the other hand, re-training and further training and counselling of unemployed persons has resulted in the reduction of unemployment and increase of employment among both Estonians and non-Estonians. Rapid positive changes have also occurred in the north-eastern Estonia where the rate of unemployment had dropped to 9% by 2007. Thus, for the first time the difference between the Estonian average rate on unemployment and the rate of

unemployment in north-eastern Estonia is less than two-fold. Nevertheless, the rate of unemployment in the north-eastern Estonia is significantly higher than in other regions and therefore still much attention needs to be given to developing this county and providing labour market services there.

177. Positive changes on the labour market in the recent years are also reflected in the employment situation of the target groups of the population based on their legal status. Impact of the financial crisis on unemployment in 2008 is also evident. As a positive factor, the rate of employment of all groups is steadily on a high level.

Table 6

**Rate of employment in the age group 15–74 based on citizenship**

		2004	2005	2006	2007	2008
Estonian citizenship	Labour force, thousand	519.5	537.2	564.7	568.7	569.5
	unemployed, thousand	37.2	33.6	27.4	22.1	25.9
	Rate of employment, %	58.5	59.1	62.3	63.2	63.4
	Rate of unemployment, %	7.2	6.2	4.9	3.9	4.6
Other citizenship	Labour force, thousand	139.7	122.4	122.1	118.6	125.4
	unemployed, thousand	26.4	18.6	13.1	9.9	12.4
	Rate of employment, %	50.7	53	58.5	59.9	60.8
	Rate of unemployment, %	18.9	15.2	10.7	8.3	9.9
Russian citizenship	Labour force, thousand	43.6	44	44.1	40.7	46
	unemployed, thousand	8.3	7.1	5.5	4	4.2
	Rate of employment, %	45	49	53.7	52.4	55.9
	Rate of unemployment, %	19	16.1	12.6	9.8	9.1
Undetermined citizenship	Labour force, thousand	90.3	72	72	72.6	72.6
	unemployed, thousand	17.1	10.5	6.9	5.9	7.7
	Rate of employment, %	54.3	55.5	62.1	65.2	64.1
	Rate of unemployment, %	18.9	14.6	9.6	8.1	10.6

Source: Statistics Estonia, Estonian labour force survey.

178. Both among Estonian and non-Estonian unemployed persons, the proportion of people who cope with their daily life either satisfactorily or with some difficulty has increased in the recent years, while in both groups the proportion of those who cope only with great difficulty has decreased. Nevertheless, coping ability of Estonian and non-Estonian unemployed persons continues to differ significantly. Among Estonian unemployed persons, there are considerably more people who cope satisfactorily than among non-Estonians (22.7% and 9.6% respectively). Among non-Estonian unemployed persons there are still considerably more people who cope only with great difficulty than among Estonians (56% and 32.4% respectively).

Table 7

**Unemployed persons by coping ability**

		2005	2006	2007
Satisfactory	Estonians	15.6	18	22.7
	Other nationalities	4.7	8	9.6

		2005	2006	2007
With some difficulty	Estonians	37.8	45.8	44.9
	Other nationalities	18.4	26.4	34.5
With great difficulty	Estonians	46.6	36.3	32.4
	Other nationalities	76.8	65.6	56

*Source:* Statistics Estonia, Estonian labour force survey.

(ii) *The right to form and join trade unions*

179. Individuals have the right to found trade unions freely, without prior permission, and to join or not to join trade unions. Only members of the armed forces who are in active service in the Defence Forces may not found or join trade unions. Trade unions may form federations and join international organisations of employees in order to represent the rights and interests of employees.

180. On 13 December 2006, the Employees' Trustee Act was adopted which also specified the rights and obligations of trade unions and their shop-stewards, in particular with regard to their participation in informing and consulting of employees. The Act was drafted in cooperation with the Estonian trade union confederations (EAKL and TALO) and the Estonian Employers Confederation.

181. The above trade union confederations (EAKL and TALO) also had a relatively important role in the drafting of the Labour Contracts Act adopted on 17 December 2008.

182. As an example of the importance of trade unions, the mechanism for fixing the national minimum wage could be mentioned. Under this system, the Government has always fixed the annual minimum wage at the level previously agreed between the social partners.

183. After the submission of the previous report, the Estonian trade union confederations (EAKL and TALO) have become full members of both the International Trade Union Confederation (ITUC) and the European Trade Union Confederation (ETUC).

184. The Trade Unions Act does not impose any preconditions (e.g. age, sex, race, citizenship) for membership of a trade union either with regard to being an ordinary member or with regard to getting elected to any level of trade union representation (including heads of confederations).

185. Under the Equal Treatment Act, discrimination of persons on the grounds of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation is prohibited in relation to membership of and involvement in an organisation of employees or employers, or a professional association, including the benefits provided for by such organisations.

186. No significant strikes have taken place during the reporting period, although warnings of strikes have been given.

(iii) *The right to housing*

187. The rights and duties of parties to a lease contract, including a residential lease contract, are regulated by the Law of Obligations Act. A dwelling is a residential building or apartment which is used for permanent habitation.

188. Under the Dwelling Act, the powers of the Government in regulating dwelling relationships include establishing requirements for dwellings and establishing socially justified standards for dwellings and exceptions to the standards.

189. The powers of local government councils in regulating dwelling relationships in their respective administrative territories include:

(1) Establishing the procedure for registration of persons not owning a dwelling or not having the right of use of a dwelling, as well as persons in need of assistance for improving their living conditions;

(2) Establishing the procedure for the possession, use and disposal of municipally owned dwellings, including maintenance and repair rules.

190. The Dwelling Act gives local government councils the right to establish rent limits for municipally owned dwellings in their respective administrative territories. The local government council amends the rent limits once in every twelve months if the prices affecting the rent have changed as compared to the previous establishment of the rent limits.

191. Under the Social Welfare Act, local government authorities are required to provide dwelling for persons or families who are unable or incapable of securing housing for themselves or their families and to create, if necessary, the opportunity to lease social housing. The procedure for provision and use of social housing is established by the rural municipality council or city council. Persons who have difficulties moving about, caring for themselves or communicating in a dwelling are assisted by the rural municipality government or city government in adapting their dwelling or in obtaining a more suitable dwelling.

192. Section 18 of the Social Welfare Act establishes types of social welfare institutions. They include, for example:

(1) Shelters – institutions offering temporary twenty-four hour assistance, support and protection for persons;

(2) Substitute homes – places for the provision of substitute home service to children;

(3) Youth homes – institutions established for living and rehabilitation for young people over the age of fifteen who are from substitute homes, schools for students with special needs, residential educational institutions or have been left without parental care;

(4) Residential educational institutions – institutions established for living, care, development and education for disabled school-age children.

193. Twenty-four hour social welfare institutions are, in general, separate for children, the elderly, persons of unsound mind, adults with mental disabilities and other socially incapable persons.

194. The Equal Treatment Act prohibits discrimination of persons on the grounds of nationality (ethnic origin), race or colour in relation to access to and supply of goods and services which are available to the public, including housing.

(iv) *The right to public health, medical care, social security and social services*

195. In Estonia, benefits are granted in accordance with national legislation to permanent residents of Estonia or to foreigners residing in Estonia on the basis of residence permits or right of residence. Payment of social insurance benefits does not depend on a person's citizenship, ethnicity or race.

196. Discrimination on the grounds of ethnic origin, race and colour is also prohibited in providing social welfare, health care and social insurance services, including granting of social benefits.



197. During the reporting period, some amendments were made to the State Pension Insurance Act. Until 2005, no early-retirement pension and until 2006 no national pension was paid to working pensioners. Since 7 January 2005, persons of pensionable age receiving an early-retirement pension are also entitled to receive the pension in case of working (if a working pensioner is still of the working age, no early-retirement pension is paid) and since 20 November 2006 persons also have the right to receive a national pension while working.

198. Since 1 January 2007, conditions of unemployment insurance became more favourable for employees. In order to be eligible for an unemployment insurance benefit, a person must have worked and paid unemployment insurance premium for at least twelve months during the 36-month period prior to registration as unemployed (previously 12 months during a 24-month period).

199. The calculation of an insurance period is terminated and the insurance period is deemed to be zero as of the date when an unemployment insurance benefit is granted to an insured person. Until 31 December 2006, the insurance period was also deemed to start from zero upon granting of the unemployment allowance. It should be noted that in the meanwhile the amount of the unemployment allowance has been increased. The daily unemployment allowance rate was 14.3 kroons in 2006, and 32.9 kroons from 2007 to 2009. The daily unemployment allowance rate is established by the state budget for each budgetary year (§ 31(1) Labour Market Services and Benefits Act).

200. The principles of granting and paying state family allowances have remained the same as described in the previous report. However, in comparison to the previous reporting period some new additional family allowances have been established. During the reporting period, the allowance to families with three or more children and families with triplets was paid. This allowance was paid in the last month of a quarter to the parent, guardian or ward who was raising at least three children or triplets eligible to receive a child allowance. Since 1 July 2007, the payment of quarterly allowances was ended and the child allowance was raised to 900 kroons a month as from the third child in the family. The allowance to the parent of a family with seven or more children was also raised to 2640 kroons in 2007.

201. Adoption allowance is a single allowance paid to adoptive parents whose adoptive child is not their descendant and who are not step-parents of the child, if no childbirth allowance was previously paid to the family in respect of the same child. In 2006, the amount of childbirth allowance and adoption allowance was raised to 5000 kroons per each child born or adopted.

202. Since 1 September 2007, all children aged 16–19 and acquiring secondary education, regardless of the form or intensity of study, are entitled to a child allowance. Previously, in case of children attending evening courses or studying part-time, family allowance was paid only on grounds of medical indications.

203. Since 2008, parents raising a child alone may apply for maintenance allowance under the Maintenance Allowance Act. Maintenance allowance is paid during judicial proceedings of a maintenance claim if the other parent does not comply with his or her maintenance obligation during that time. The maximum amount of maintenance allowance is 4500 kroons.

204. In comparison with the previous report, the Parental Benefits Act has been amended. Since 1 September 2008, a child's father is eligible for a parental benefit when the child has become 70 days old. The period of payment of the parental benefit has been extended on two occasions during the reporting period. In 2006, the payment period was extended by 90 days and in 2008 by further 120 days. Since 2008, the parental benefit is paid for up to 575 days from the beginning of the pregnancy leave and maternity leave; if the mother does not

work then until the child attains 18 months of age. Each year the rate and ceiling of the benefit has risen.

205. During the reporting period, granting of disability allowance for persons of working age has changed. The allowance is granted to persons beginning from 16 years of age until pensionable age. If the degree of severity of disability was determined before 1 October 2008, the amount of the allowance is 260 kroons a month in case of a moderate disability, 560 kroons a month in case of a severe disability and 840 kroons a month in case of a profound disability. Since 1 October 2008, the disability allowance for persons of working age does not depend on the degree of severity of the disability but is determined on the basis of additional expenses in the amount of 260–840 kroons. Additional expenses caused by the disability are determined on the basis of the needs of a working-age person (e.g. medicines, transport, medical devices, special needs for clothing and footwear, need to compensate increased household expenses, means of communication) and the extent of his or her uncompensated functional disorders.

206. In 2008, a new kind of support for working persons with disability was established – work allowance. Work allowance is paid to compensate additional expenses in relation to work as a result of the disability in the amount of 4000 kroons in the period of three years.

207. The amount of the death grant has increased in comparison to the previous reporting period: it was 2400 kroons in 2006, 2600 kroons in 2007 and 3000 kroons in 2008.

208. Eligible to victim support are all persons who have fallen victim to negligence, mistreatment or physical, mental or sexual abuse. Thus, all persons who have been caused suffering or damage may receive victim support (for more detail see paragraphs 298–304 of the report).

209. In paragraph 17 of its concluding observations, the Committee expressed concern at the high rate of HIV/AIDS among persons belonging to minorities and recommended taking further measures to combat HIV/AIDS.

210. On 1 December 2005, the Government approved the HIV/AIDS strategy for 2006–2015 and its action plan for 2006–2009. The strategy deals with the following areas of activity in stopping the spread of the HIV epidemic and alleviating its effects on Estonian society: prevention among different target groups, HIV testing and counselling; treatment and welfare of persons with HIV/AIDS; monitoring and evaluation and development of the human and organisational resource.

211. Estonia continues taking active and intensive measures against HIV. The regions with the highest rate of infection are still Harju County and Ida-Viru County, of which the latter has a large proportion of non-Estonian population and persons with undetermined citizenship. Currently, infection is target group centred, i.e. Estonia has a concentrated epidemic and the majority of infected persons are injecting drug users. It is estimated that even 70–80% of HIV infected persons are drug addicts. 633 HIV infected persons were detected in 2007 and 544 persons in 2008. The key activities in stopping the spread of HIV infection and preventing a generalised epidemic focus on work with injecting drug addicts. Currently the needle and syringe exchange service is provided in the whole Ida-Viru County. The World Health Organisation (WHO) external assessors in their HIV report also pointed out the needle exchange programmes as a positive measure and if similar steps continue to be taken there is hope that the epidemic among injecting drug users slows down. Counselling, testing and support and treatment services are also provided. Case-management service is also being implemented. On the state level, each year an action plan for the following year is drawn up where the activities planned in respect of different target groups are carefully reviewed.

212. The Government also implements a national drug addiction prevention strategy under which an annual action plan is also drawn up, providing for measures to improve services for drug addicts. Comprehensive information campaigns for raising public awareness have been carried out both for the prevention of HIV and drug addiction.

213. The action plans for both strategies take into consideration the particular nature of services intended for non-Estonian population. All study and information materials and information campaigns are in two languages (Estonian and Russian). Training courses are also actively organised in Russian both for specialists and young people. In view of the epidemiological situation, activities for minorities are also implemented. Strategic measures are primarily target group based and therefore it is always important to take into consideration the nationality and cultural background of the people.

(v) *The right to education*

214. The right to acquire education is guaranteed by the Education Act, the Pre-school Child Care Institutions Act, the Basic Schools and Upper Secondary Schools Act, the Private Schools Act, the Vocational Educational Institutions Act, the Institutions of Professional Higher Education Act and the Universities Act.

215. All persons residing in Estonia have the right and obligation to acquire compulsory level of education. Equal opportunities exist for acquiring secondary, vocational and higher education as well as participating in hobby education. Under the Education Act, education is compulsory for school-age children. Obligation to attend school also applies to children of foreign citizens and people with undetermined citizenship residing in Estonia.

216. Under the Equal Treatment Act, upon determination of the content of instruction and organisation of instruction educational and research institutions and other agencies and persons organising training shall take account of the need to promote the principle of equal treatment.

217. In addition, the Equal Treatment Act prohibits discrimination of persons on the grounds of nationality (ethnic origin), race or colour in relation to education and access to vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience. The Act also establishes prohibition of discrimination on the grounds of religion or other beliefs, age, disability or sexual orientation in relation to access to vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience.

218. Under the Gender Equality Act, educational and research institutions and institutions engaged in the organisation of training shall ensure equal treatment for men and women upon vocational guidance, acquisition of education, professional and vocational development and re-training. The curricula, study material used and research conducted shall facilitate abolishing unequal treatment of men and women and promote equality.

219. Under the Minister of Education and Research Regulations No. 31 and 65 of 2007, incitement of gender-related, national, cultural or racial prejudices must be avoided in texts and illustrations of textbooks and other study materials (No. 31) as well as stereotypes inciting to gender-related, national, cultural, religious or racial prejudices (No. 65).

220. National regulative framework in the Estonian education system allows a considerable degree of freedom in the choice of the language of instruction. In principle, any language may be used as the language of instruction. The choice of the language of instruction is delegated to the owner of the educational establishment or to the educational institution. However, the NGO Legal Information Centre for Human Rights (LICHR) has pointed out that in the choice of the language of instruction it should be taken into account that the use of a language different from the ordinary language of instruction may entail a

considerable financial burden for the school in terms of translation of the materials required by the national curriculum.

### Pre-school education

221. Under the Pre-school Child Care Institutions Act (§ 8), schooling and education at a pre-school child care institution (children up to the age of seven) is conducted in Estonian. It may also be conducted in another language on the basis of a decision of the local government council. In 2007, Estonian, Russian and English were used as the working languages in child care institutions in Estonia, whereas inside the group in a child care institution one language is used as the working language. Child care institutions with Russian as the working language are usually located in cities and regions where the Russian-speaking population constitutes more than 40% (Ida-Viru County, Harju County, including Tallinn). Of all child care institutions, those with Estonian as the working language make up 79.4%, those with Russian 12.1%, those with Estonian and Russian 8.3% and those with English 0.2%.

222. Under the Pre-school Child Care Institutions Act, in kindergartens teaching of the Estonian language is provided both to children with Estonian or another language as their mother tongue. At a child care institution or a group thereof where schooling and education is not conducted in Estonian, Estonian language instruction to the extent established by the framework curriculum for pre-school education is compulsory (a class of a duration of 20 minutes at least twice a week for children aged 3–7).

Table 8

#### The number of children in pre-school child care institutions according to the working language of the institution 2005–2007

Working language	Number of children and proportion (%)					
	2005		2006		2007	
Estonian	37 348	70.58	38 297	70.16	38 944	69.38
Russian	15 546	29.38	16 263	29.79	17 164	30.57
English	19	0.04	22	0.05	22	0.05

Source: Statistics Estonia. Pre-school child care institutions, 1 January 2007.

223. Language immersion programmes are implemented in groups in several kindergartens where the working language is Russian. In such groups Estonian is used as the working language. Teachers of those kindergarten groups have received special training which enables them to support the Estonian language development of children, as well as to provide guidance to parents.

224. The Ministry of Education and Research has drawn up an implementing plan to 2012 for the national curriculum for pre-school child care institutions. Based on the implementing plan, a large number of heads of kindergartens and kindergarten teachers are trained (including group teachers, Estonian language, music and movement teachers) to help administrations of child care institutions to better plan and implement the changes and to train teachers to use the newest methodologies in supporting the Estonian language learning of children. The training courses began in October 2008 and will take place throughout the following school year. A methodological handbook and other teaching and methodological materials are compiled for the development of schooling and education. Child care institutions also receive support in the choice and procurement of suitable teaching materials. In addition, regional information days for education leaders and heads

of kindergartens in counties are organised. The teaching and methodological materials reach the kindergartens at the latest by 1 March 2009.

225. Support for the wages of teachers of Estonian as a second language is allocated for supporting the extension of teaching of Estonian as a second language in pre-school child care institutions (for children from the age of three) in 2009. The allocation is based on the average number of groups in non-Estonian child care institutions and the minimum wage of teachers which equals the wage rate of junior basic school teachers. Since 2009, allocation of the support can be based on the number of children whose language of communication at home is not Estonian. Six million kroons have been planned for this in the state budget.

### Basic education

226. Under the Basic Schools and Upper Secondary Schools Act (§ 9), on the level of basic education (school years 1–9) any language may be the language of instruction. Under § 9(2) of the Act, the language of instruction is defined as the language in which more than 60% of the study takes place. The owner of a school decides the choice of the language of instruction taking account of the needs of the region and the existing resources: existence of the teachers, possibilities for procuring study materials, etc. Education in basic schools can be acquired in Estonian, Russian, English and Finnish. In 81% of general education schools the language of instruction is Estonian, in 14% Russian, 4% of the schools have departments with instruction either in Estonian or Russian, and in the remaining schools (1%) the language of instruction is English or Finnish.

Table 9

#### The number of schools by language of instruction 2002–2007

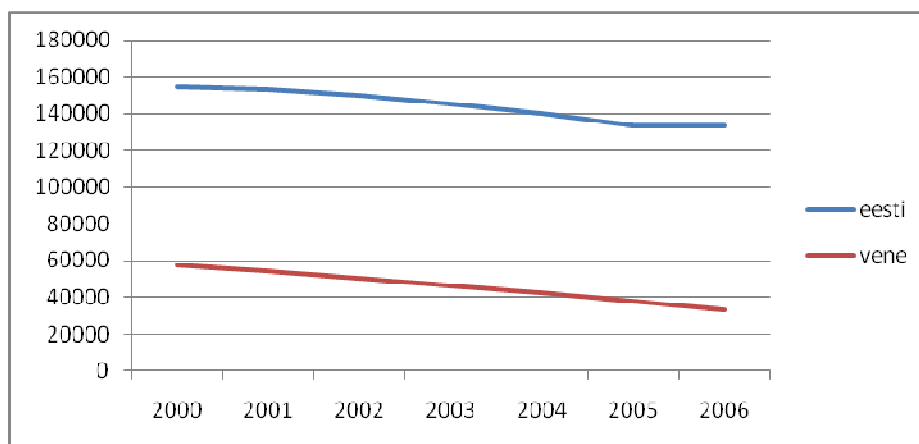
<i>Language of instruction</i>	<i>2002/2003</i>	<i>2003/2004</i>	<i>2004/2005</i>	<i>2005/2006</i>	<i>2006/2007</i>
Estonian	414	415	409	404	405
Russian	85	80	79	75	71
Estonian and Russian	20	20	19	21	21
English			1	2	2
Estonian and English			1	1	1
Estonian and Finnish				1	1
<b>Total</b>	<b>519</b>	<b>515</b>	<b>509</b>	<b>504</b>	<b>501</b>

227. Proficiency in the Estonian language is important for ensuring equal opportunities in education and the labour market for people whose mother tongue is not Estonian. In supporting the development of the Estonian language proficiency among basic school pupils, language immersion programmes have proved to be an effective measure. Under the Basic Schools and Upper Secondary Schools Act (§ 9(3)), in a school or class where instruction is not conducted in Estonian the Estonian language study is compulsory as of the first school year. Language immersion programmes are implemented in more than a third of schools with Russian as the language of instruction (32 schools), and a total of 10% of basic schools pupils of Russian-speaking schools participate in the programmes. Two types of language immersion exist: early and late immersion. Early language immersion programme (in 14 schools) means that in the first school year all teaching takes place in Estonian, the study of Russian begins in the second year, in the third year the first foreign language is added, and as of the fourth year some subjects are taught in Estonian and some in Russian. In the case of late language immersion (in 20 schools), which begins from the sixth school year, in the sixth year in addition to Estonian (as a subject) four more subjects are taught in Estonian, in the seventh and eighth year the teaching is conducted in Estonian while the study of Russian language and literature also continues, in the ninth year the

proportion of teaching in Estonian and Russian is more or less equal (50:50). The number of pupils participating in language immersion programmes has constantly increased. Although there has not been a significant increase in the number of schools applying language immersion, all the schools that have started the programme continue to implement it and therefore the number of participating pupils increases. Since 2005, the language immersion class is distinguished as a separate class type in the Estonian Education Information System, and since 2006 the cost of a place of a pupil participating in the language immersion programme is calculated on the basis of the coefficient of 1.2.

Figure I

**The number of pupils in general education schools with Estonian or Russian as the language of instruction 2000–2007 (eesti – Estonian; vene – Russian)**



Estonian Education Information System 2007.

228. In order to help maintain the national identity of pupils, schools in cooperation with the state and local authorities ensure possibilities for studying mother tongue and national culture for pupils acquiring basic education whose mother tongue is not the language of instruction in their school. A language learning group may be opened if parents of at least ten pupils with the same mother tongue have submitted a written application with a relevant request. In the school year 2007/2008, Ukrainians (one group), Lithuanians (one group) and Italians (one group) studied their mother tongue and culture as an optional subject within the school curriculum. In the school year 2007/2008, there were 77 pupils in Estonian schools who had lived and studied in Estonia for less than three years and whose language of communication at home was different than the language of instruction at school. The overall number of pupils whose mother tongue was different than the language of instruction at school was 5300 in 2007/2008. Of them, the majority were pupils with Russian as their mother tongue or language of communication at home who attended schools or classes where the language of instruction was Estonian. Classes with Russian as the language of instruction were attended by 640 pupils for whom Russian was not the mother tongue.

### Secondary education

229. Under the Basic Schools and Upper Secondary Schools Act, in the upper secondary school stage (school years 10–12), the language of instruction is Estonian. In the upper secondary school stage of municipal schools and in specific classes of municipal schools, any language may be the language of instruction. Permission for instruction in another language is granted by the Government of the Republic on the basis of an application by a

local government council. A corresponding proposal is made to the local government council by the board of trustees of an upper secondary school based on the development plan of the school. In private schools, the owner of the school decides the choice of the language of instruction.

230. In autumn 2007, transfer of upper secondary schools with Russian as the language of instruction to instruction in Estonian was begun. In the school year 2007/2008, teaching of Estonian literature in Estonian was begun. Each year, one more subject taught in Estonian is added.

231. In the school year 2008/2009, upper secondary schools must teach in Estonian at least Estonian literature and music or civic studies.

232. Under the Government regulation, as of the school year 2011/2012 Estonian upper secondary schools must ensure instruction in Estonian to the extent of at least 60% of the minimum compulsory curriculum to pupils entering the tenth school year. The transfer is flexible – five of the subjects to be taught in Estonian are determined on the national level, and the schools themselves may choose the remaining subjects. The main purpose of transfer to instruction in Estonian is to increase the competitive ability of Russian-speaking young people. In basic schools, instruction of subjects in Estonian is not compulsory.

233. In the school year 2008/2009 instruction in Estonian is provided as follows:

- 49 schools (79%) teach music in addition to Estonian literature (in Ida-Viru County 14 schools, 64%)
- 30 schools (48%) teach civic studies in addition to Estonian literature (in Ida-Viru County 12 schools, 54%)
- 17 schools (27%) teach both civic studies and music (in Ida-Viru County 4 schools, 18%)
- 41 schools (66%), in addition to the two compulsory subjects, teach also some other subjects in Estonian, e.g. physical education, art, or computer classes (in Ida-Viru County 14 schools, 64%)

234. In comparison to the school year 2007/2008, ten new schools have started teaching more subjects in Estonian in addition to the compulsory subjects.

235. In the school year 2008/2009, similarly to the school year 2007/2008, the Ministry of Education and Research continues to provide support in the amount of 70 000 kroons per one subject to all schools with Russian as the language of instruction if they teach more than the compulsory subjects in Estonian. All schools have received support for purchasing study materials and equipment for teaching Estonian literature, civic studies and music.

236. Teachers of Estonian literature, civic studies, history, music and geography have received relevant training. Additional study aids and materials have been prepared. Training courses continue for teachers of music and civic studies. In 2008/2009, training of teachers on methodology of teaching in the second language continues. The main target groups are teachers of physical education and art (these are subjects most frequently chosen by the schools for instruction in Estonian). At the same time, training courses for other subject teachers are offered as well.

237. It is not yet possible to assess the quality and effectiveness of instruction in Estonian on the upper secondary school level, but at least one subject was taught in Estonian on the upper secondary school level in all Russian-speaking schools. A counselling system for schools with Russian as the language of instruction was launched with the aim to provide methodological support for teachers who teach in Estonian and assistant head teachers and,

if necessary, support pupils and parents with obtaining information about the effectiveness of methodology of teaching in the second language.

238. According to the results of external assessment (state examinations), the Estonian language proficiency of basic school leavers and young people acquiring secondary education has remained stable. In 2007, 67.5% of those who passed the final examination received more than 50 points, which is necessary for acquiring basic education. The results of the state examination in Estonian as a second language of upper secondary school leavers do not significantly differ statistically from the results of the two previous years. The results of the state examination still differ by regions. Pupils still receive lower scores in Ida-Viru County and Harju County (except Tallinn). In 2006, 79% of upper secondary school leavers passed the intermediate level language proficiency examination, and 78% in 2007, which also demonstrates that the situation remains stable.

### Vocational education

239. In the school year 2007/2008, there were 47 vocational educational institutions in Estonia, of which 32 were state-owned, 3 were municipally owned and 12 privately owned.<sup>6</sup> Under the Vocational Educational Institutions Act (§ 18), the language of instruction at schools is Estonian but other languages of instruction may be used. The use of other languages is decided by the Minister of Education and Research. Currently, vocational education in Estonia can be acquired in Estonian and Russian. In the school year 2007/2008, there were only seven vocational institutions with Russian as the language of instruction, making up 15% of the total number of vocational educational institutions, of them one state or municipal educational institution and six private schools. The number of vocational educational institutions with Estonian-Russian language of instruction made up 32% of the total number of vocational educational institutions, of them 12 state or municipal educational institutions and 2 private schools. In the above period, there were 21 state or municipal and 4 private vocational institutions where the language of instruction was Estonian.

Table 10

#### The proportion of pupils in vocational education by language of instruction in the school year 2005/2006–2007/2008

<i>School year</i>	<i>Language of instruction Estonian</i>	<i>Language of instruction Russian</i>
2005/2006	67.7	32.3
2006/2007	69.1	30.9
2007/2008	72	28

Ministry of Education and Research. Key statistical indicators of vocational education, 2007.

240. Under the Vocational Educational Institutions Act (§ 13), curricula of vocational educational institutions are prepared on the basis of the requirements specified in the vocational education standard and the corresponding national curriculum. Under § 22 of the Act, the study of the Estonian language is compulsory on the secondary school level in vocational educational institutions where Estonian is not the language of instruction: in order to graduate from the school the graduates who acquire secondary vocational education must pass the state examination in the Estonian language.

241. The extent of compulsory study of the Estonian language in vocational educational institutions in groups where the language of instruction is not Estonian is four weeks. The

<sup>6</sup> Education and Employment Monitoring Centre EHIS.



strategy for the development of the Estonian language for 2004–2010 provides that graduates of vocational educational institutions should be capable to communicate in Estonian within their speciality and be able to work in an Estonian-speaking environment, and their level of proficiency of the Estonian language should conform to the qualification requirements for their occupational post. For this, the quality of language teaching needs to be raised and more attention should be paid to learning the language of one's vocational speciality. The amount of instruction in Estonian in vocational educational institutions with Russian as the language of instruction or with bilingual instruction needs to be increased.

### Higher education

242. Under the Universities Act (§ 22(8)) and the Institutions of Professional Higher Education Act (§ 17), the language of instruction at the level of higher education is Estonian. The use of other languages is decided by the council of a higher educational institution. At the same time, these two Acts do not define the concept of the "language of instruction". An exception are specialities of foreign languages where the language of instruction is the target language (e.g. in the speciality of English philology also other subjects besides English are studied in English). In the academic year 2007/2008, it was possible in Estonia to acquire higher education in Estonian, Russian or English. Mostly the language of instruction is Estonian. In 2007, study groups with Russian as the language of instruction existed in 16 higher educational institutions out of 35, i.e. in almost half of them. Instruction in Russian was most frequently provided in private applied higher educational institutions: in 8 out of 11 higher educational institutions. In the eight state-owned applied higher educational institutions instruction takes place in Estonian, in one institution Russian-speaking study groups have been opened.

Table 11

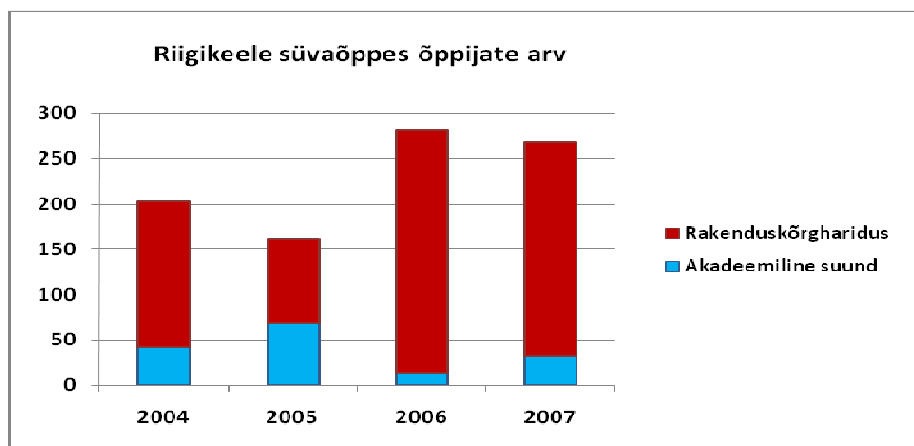
#### The proportion of students in higher education by levels of education and language of instruction in the academic year 2007/2008

<i>Level of education/language of instruction</i>	<i>Estonian as the language of instruction %</i>	<i>English as the language of instruction %</i>	<i>Russian as the language of instruction %</i>
Bachelor's studies	89.6	2.6	7.8
Master's studies	96.8	2.4	0.8
Doctoral studies	98.6	1	0.4

Estonian Education Information System, 2007.

243. In accordance with the Universities Act and the Institutions of Professional Higher Education Act, students whose proficiency in Estonian is not sufficient to complete the curriculum in Estonian may undertake intensified Estonian language study. In this case their nominal period of studies is extended by up to one academic year.

Figure II  
**The number of students undertaking intensified study of the Estonian language in higher educational institutions in Estonia in the period 2004–2007** (applied higher education; academic higher education)



244. Among students starting to acquire higher education there is an equal proportion of those who acquired secondary education either in Estonian or Russian. According to the data of 2007, 8929 pupils graduated from an Estonian-speaking upper secondary school (73% of all graduates), of them 5770 (65%) entered a higher educational institution. The number of pupils graduating from a Russian-speaking upper secondary school was 3258 (27%), of them 2169 (67%) continued to acquire higher education (60% in 2005). Among graduates of Russian-speaking schools the number of those entering a higher educational institution has increased during the past three years, and in 2007 their number exceeded by two percent the number of graduates from Estonian-speaking schools who continued to acquire higher education.

245. 52% (i.e. 1131) of graduates of Russian-speaking schools who entered a higher educational institution in 2007 chose Estonian as the language of instruction on the higher education level. 34% of those continuing to acquire higher education in Estonian and 14.4% (i.e. 316 students) of those continuing with Russian as the language of instruction were admitted to a student place financed from the state budget. Thus, 48% of graduates of Russian-speaking schools were admitted to a state-financed student place (the indicator was the same in 2006). 46% (1008) of the graduates continued to acquire higher education in Russian. Of graduates of Estonian-speaking upper secondary schools 55% were admitted to a state-financed student place. 3% of graduates of upper secondary schools continued to acquire higher education in English.

246. Since 2006, in addition to the curriculum of their chosen speciality all students may also study Estonian to a different extent and for different periods. Previously, only those students whose score in the Estonian language state examination had been below 60 points could receive such support.

### Sunday schools

247. The Hobby Schools Act which entered into force in September 2007 establishes a definition of a hobby school (§ 3) as an educational establishment operating in the area of youth work which creates an opportunity for the acquisition of hobby education and for the diverse development of the personality, including cultivation of one's own language and culture, in different areas of hobby education. In accordance with the Hobby Schools Act,

in autumn 2007 the Minister of Education and Research adopted an order on the principles of basic financing of Sunday schools, under which 12 Sunday schools with 178 pupils of different nationalities were financed in the school year 2007/2008. The aim of financing of Sunday schools is to enable ethnic minorities to study their mother tongue and culture. In 2007/2008, Armenian, Azerbaijani, Dagestan, Jewish, Turkish, Ukrainian, Uzbek and Russian Sunday schools were financed.

248. Financing from the state budget also continues for extracurricular language learning projects in the form of camp and family study models mentioned in the previous report. The projects are intended for young people with Estonian or other mother tongue (as a rule, children speaking both languages participate, as in addition to language learning this also promotes creating closer contacts between young people with different mother tongues) and the attendance is approximately 1200 young people.

249. The Committee in paragraph 18 of its concluding observations expressed concern about the limited proportion of Roma children who attend school and recommended strengthening efforts to address the low level of school attendance among children belonging to the Roma community. In cooperation with the North Estonian Roma Association, the Ministry of Education and Research has planned various activities for improving educational opportunities of Roma children. It is important to carry out a survey to find out the actual number of children belonging to the Roma community, as the current data are rather controversial: according to the Roma community there are 300 Roma children in Estonian schools while according to the information of the Ministry of Education and Research there are only 100 Roma children at schools. As of this school year, the Estonian Education Information System distinguishes Roma as a separate ethnic group. This should help to ensure availability of more adequate information about Roma children in the future. Together a film is being made which depicts the daily life of the Roma community on the example of one large Roma family, and also describes the educational needs and opportunities of the Roma. The aim of the film is to increase tolerance and break down prejudices about the Roma community.

### **Human rights education**

250. The national curriculum is currently in the stage of development. On 12 January 2009, the draft working document of basic school syllabuses, including the civic studies syllabus, were posted on the website [www.oppekava.ee](http://www.oppekava.ee). The national curriculum provides that civic studies should help pupils to develop into self-fulfilling members of society who are considerate towards others and are socially competent. One of the objectives of civic studies is to develop democratic principles such as justice, equality, accountability, freedom, diversity and tolerance.

251. The topic of discrimination is covered in civic studies and human studies subjects in general education schools. These topics are also contained in the relevant study materials. Additional study materials on tolerance have been created in the virtual learning environment MIKSIKE ([www.miksike.ee](http://www.miksike.ee)). The EU Charter of Fundamental Rights with commentaries has been compiled and printed for schools in Estonian and Russian. The study materials sent to schools also include the Convention on the Rights of the Child and the UN Universal Declaration of Human Rights.

252. In 2006 and 2007, the Institute of Human Rights organised seminars and information events in Ida-Viru County and Tallinn on EU directives 2000/43/EC and 2000/78/EC. Participants also included students.

253. In 2008, two three-day training seminars for civic studies teachers were held, with an attendance of 90 teachers. The training materials are available on the homepage of the Estonian History Teachers Society at [www.eas.edu.ee](http://www.eas.edu.ee).

254. The Estonian History Teachers Society participated in an international project for human rights education in 2007 and 2008. Within the framework of the project, on 2 February 2008 a seminar was held where participants replied to the EUROCLIO questionnaire on human rights education and discussed the possibilities for improving coverage of the topic in general education schools. The objective of the project was to share experiences of teaching human rights in the participating countries. As its contribution, Estonia sent a chapter from the compilation "Individual and society" which was highly rated by the committee assessing the study materials.

255. In 2008, methodological materials on humanitarian law were translated into Estonian. A relevant seminar and testing of the materials at schools also took place. The work in this respect still continues.

(vi) *The right to equal participation in cultural activities*

256. The right to equal participation in cultural activities is dealt with in more detail under Article 7 of the report.

**The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks**

257. These rights were described in Estonia's fifth report. We would like to add that the Equal Treatment Act entered into force on 1 January 2009, prohibiting discrimination on the grounds of nationality (ethnic origin), race or colour in relation to access to and supply of goods and services which are available to the public, including housing.

## Article 6

258. Under the Constitution, everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right to compensation for moral and material damage caused by the unlawful action of any person. Justice is administered solely by the courts. The courts are independent in their activities and administer justice in accordance with the Constitution and the laws.

259. The legal bases of the organisation of courts and court service are provided in the Courts Act adopted on 19 June 2002.

260. The Estonian court system consists of four county courts, two administrative courts, three courts of appeal and the Supreme Court. County courts and administrative courts are first instance courts, the courts of appeal are second instance courts and the Supreme Court in Tartu functions both as the court of cassation and the court of constitutional review.

261. Courthouses within the structure of four county courts (Harju, Pärnu, Tartu and Viru) are located in each county centre (in Ida-Viru County and Harju County there are three courthouses). The two administrative courts (Tallinn and Tartu) include altogether four courthouses: in Tallinn, Tartu, Pärnu and Jõhvi. Three courts of appeal are located in Tallinn, Tartu and Jõhvi.

262. The Committee in its concluding observations expressed concern that very few acts of racial discrimination had been prosecuted and punished. The Committee recommended that the State party should ensure that appropriate provisions are available in national legislation, and to inform the public about all legal remedies in the field of racial discrimination (recommendation No. 19).

263. The Penal Code establishes liability for incitement of hatred (including on the grounds of race or colour), violation of equality (including on the grounds of race or colour) and discrimination based on genetic risks (§§ 151-153), as well as unlawful treatment of

prisoners or persons in detention or custody, including discrimination (§ 324). Thus, Estonia has the relevant legal framework containing provisions applicable in cases of racial discrimination. The fact that no complaints concerning racial discrimination have been filed could be mostly due to Estonia being a relatively homogenous country as compared to many others. No information can be presented on the proportion of representatives of different races among the Estonian population as the state does not collect data on racial origin of the inhabitants.

264. From the beginning of 2005 to the end of the first half of 2008, one criminal offence against equality was registered in 2006 (§ 151 Penal Code, incitement of hatred). In 2005, one person was convicted under § 151 of the Penal Code and in the same year one person was acquitted of charges under the same section. In 2006, proceedings were not initiated with regard to two notices of a criminal offence due to the absence of elements of a crime. In 2007, no relevant notices of a criminal offence were received and in the first half of 2008 proceedings were not initiated with regard to two notices of a criminal offence due to the absence of elements of a crime.

265. From the previous years, one case under § 151 of the Penal Code is pending in Viru Court of Appeal and one in the Supreme Court. Viru Court of Appeal is adjudicating a case where a person is accused of having posted on an Internet portal a public appeal inciting to violence and hatred in respect of the Jewish nationality. The Supreme Court is adjudicating a case of incitement of social hatred in which the person was acquitted by the first instance court due to the absence of the elements of a crime. The Court of Appeal, however, convicted the person and imposed a money penalty of 32 000 kroons.

266. In response to paragraph 19 of the Committee's concluding observations, we affirm that Estonia has the relevant legislation, as well as the will of the authorities to deal with discrimination complaints. Estonian population is highly aware of the existence of legal remedies – non-governmental organisations, representatives of national minorities and ordinary citizens have often drawn the attention of law enforcement authorities to cases occurring in the media or public space (Internet comments, articles, graffiti) for the reason that they had detected incitement to national, racial or religious hatred. If independent expert assessment confirms the existence of national or racial hatred in any of such cases, the relevant proceedings are carried out.

267. The Ministry of Justice has carried out the following surveys:

Media representation of race and racism in national newspapers in Estonia in 1996–2006; Triin Vihalemm, 15 October 2007;  
<http://www.just.ee/orb.aw/class=file/action=preview/id=31421/Millist+maailmapilti+konstrueerib+Eesti+trykimeedia.ppt>

Survey of legal awareness of the Estonian inhabitants, 2007;  
<http://www.just.ee/orb.aw/class=file/action=preview/id=30815/Eesti+elanike+%F5i+gusteadlikkuse+uuring.pdf>

The aim of the survey is to find out awareness of Estonian inhabitants about fundamental rights. The results showed that among the respondents there is a distinct group whose legal awareness is smaller. Awareness is lower among older people with a lower than average education who live in smaller settlements and often in small households or alone. More than a third of them are pensioners and about a third are private sector employees. These are apparently people who are less strongly integrated to society and who do not actively participate in daily life of the community and who are not linked to society through workplace colleagues, school or family.

Survey “Racism and xenophobia in Estonia”; Ministry of Justice 2007;  
<http://www.just.ee/orb.aw/class=file/action=preview/id=31425/Uuringuprojekt+Rassism+ja+ksenofobia+Eestis+memo.doc>

The aim of the survey was to assess the attitude of Estonian population to people with a different cultural, racial or religious background living in Estonia, and to assess the risks of hate crimes. The analysis showed that the feeling of cultural and general security depends primarily on language, education and age of the respondents. Another important factor affecting the attitudes of the people towards other cultures and immigration is related to the frequency of contacts with persons of another nationality or race.

268. In 2007, a comprehensive survey on unequal treatment was carried out in Estonia, called “Unequal treatment on the grounds of a person’s characteristics or social position: attitudes, experiences and awareness of the population”. The aim of the survey was to find out views and experiences of Estonian inhabitants concerning discrimination, as well as their attitudes and readiness to take steps when exposed to cases of discrimination. The survey is based on the population poll carried out in May and June 2007, involving 1208 respondents. The respondents noted that discrimination occurred most frequently in working life and in the area of services. Among the possible grounds of discrimination, nationality and age were mentioned most frequently, followed by good contacts (or their absence), financial position, insufficient knowledge of the state language, and disability or long-term health problem. Sex, sexual orientation, racial origin and religion were very rarely felt to be the grounds of unequal treatment.

269. In autumn 2008, researchers of the Universities of Tallinn and Tartu introduced the monitoring survey “Monitoring the integration of Estonian society 2008” carried out in April 2008. The results of the survey showed that indicators of structural integration of Estonian society (knowledge of the Estonian language, proportion of Estonian citizens among the population, socio-economic indicators) have improved. However some indicator characterising the attitudes of people have deteriorated. Mentality-based integration is becoming a central issue in enforcing both internal and external security. The survey showed that for Estonians the issue of language requirements and citizenship is on the foreground, while the Russian-speaking population attaches importance to social objectives and mutual dialogue.

270. Several integration projects have been implemented with the help of external funding. For example, the EU transition facility project “Reducing the number of people with undetermined citizenship” ended on 31 December 2008 and the project “Support to the implementation of the State Integration Programme and capacity-building of integration-related institutions” ends at the beginning of 2009.

271. In 2008, the Legal Information Centre for Human Rights (LICHR) carried out the project “Increasing the influence of civil society on politics and assisting victims of violations of fundamental human rights”, financed by the European Commission. Within the framework of the project, the following activities were carried out: providing legal assistance and information via a hotline service to persons whose rights have been violated, in particular in cases of unequal treatment; analysis of legislation on equal treatment; supporting and training of non-governmental organisations observing the principle of equality, and work with the media. On 18–19 April 2009, training seminar for NGOs involved in combating intolerance and discrimination was organised. Project conclusions were presented at an international seminar in Tallinn on 21 November 2008.

272. Since 1 January 2008, the LICHR offers a hotline service operating six days a week. Calls are answered by two lawyers. In 2008, approximately 500 calls were received: 5–10% of the queries concerned discrimination and 10–15% other violations of fundamental rights.

The remaining calls mainly dealt with issues of labour law and pension rights. The case investigated by the Chancellor of Justice and described in paragraph 291 of the report also started with a complaint received on the LICHR hotline.

### **The right of recourse to other institutions**

273. In paragraphs 191–201 of Estonia's sixth and seventh report the activities of the institution of the Chancellor of Justice were described in detail.

274. The Chancellor of Justice does not collect separate statistics on petitions referring to possible discrimination. The issue may rise in the framework of Chancellor's constitutional review activities, his ombudsman function or in the course of conciliation proceedings in the context of many different circumstances. Violation of the principle of equal treatment is often one of the additional arguments in a petition and therefore it would be difficult to collect separate statistics on it. Only rarely the Chancellor has received petitions dealing directly with the issue of racial discrimination.

275. In the following part we will provide examples of petitions in the case of which the Chancellor of Justice concluded that the principle of equal treatment had been violated.

276. In 2007, the Chancellor of Justice was contacted by inhabitants of Narva who found that they had been treated unequally in the process of determination of the price of transfer of municipal apartments. As a result of his analysis the Chancellor concluded that Narva City Council and Narva City Administration had violated the principle of equal treatment, allowing two residents to acquire a municipal apartment at a significantly lower price than the petitioners. The Chancellor concluded that in view of the objective and essence of use and disposal of dwellings owned by the local authority both the petitioners and the more favourably treated persons should be seen as equal subjects who should be treated equally. The Chancellor found that no good reason existed for treating two persons more favourably in the process of privatisation of dwellings.

277. In 2007, the issue of equal treatment also rose in a case where two children's camps had refused to accept children from a children's home. In this case the Chancellor of Justice initiated proceedings on his own initiative and found that the criteria for admission of children to the camp, based on which children from children's homes were not accepted, did not conform to the requirements established by legislation. The camps refused to accept children from children's homes not because the particular children had caused problems in the camps in previous years but because of an overall assessment that such children are generally problematic. The Chancellor requested that the camps immediately stop discriminating against children from children's homes in their admission procedures and start applying equal conditions for all. Both camps informed the Chancellor that they had informed the relevant children's home about the possibilities of sending children to the summer camp.

278. On 19 September 2008, a debate was held at the Chancellor's Office about the possibility of establishing a scheme for ascertaining the principle of equal treatment, and the Chancellor's approach to resolving various cases.

279. On 11 February 2007, advisers to the Chancellor of Justice went on a training visit to the European Court of Human Rights where they familiarized themselves with the Court's approach to determination of compliance with the principle of equal treatment.

280. In 2007, the Chancellor of Justice dealt with the aspect of equal treatment within the investigation of sixty cases (23 cases in 2006), among them five petitions for initiating conciliation proceedings.

281. Conciliation proceedings are based on the idea that it should be relatively easy for individuals to contact the Chancellor of Justice and, due to the discreetness of the

Chancellor's proceedings, the rights and interests of petitioners are ensured throughout the proceedings. The outcome of proceedings is not punishment. The Chancellor as an intermediary listens to both parties, ascertains the facts, and tries to conciliate the parties. All information relating to conciliation proceedings is only disclosed in a form which does not enable identification of the parties in the proceedings. The aim of voluntary conciliation is to bring the disputing parties closer to each other and encourage them to change their positions and find a common solution. The Chancellor's role is to propose solutions.

282. In 2007, no conciliation proceedings ending in an agreement took place in the Office of the Chancellor of Justice. As was previously explained, the Chancellor received only five petitions asking to initiate conciliation proceedings. We will provide a couple of examples.

283. In one case, a male petitioner was of the opinion that selling tickets at different prices to men and women in nightclubs was contrary to the principle of equal treatment and asked the Chancellor to initiate conciliation proceedings. The Chancellor reached the opinion that conciliation proceedings were not the most effective remedy in this case, as conciliation proceedings are voluntary and prior consent for participation in proceedings must exist by the individual or institution which allegedly violated the petitioner's rights. The Chancellor advised the petitioner to contact the Gender Equality Commissioner.

284. In another case, the petitioner claimed that they had been discriminated against due to nationality. The petitioner had requested to be included in the internal audit committee of an apartment association, but the organiser of the general meeting of the association had turned down the request and refused to put it to a vote. The organiser of the general meeting was of the opinion that the petitioner could not speak Estonian. No proceedings were initiated, as the respondent did not react to Chancellor's repeated proposals to participate in conciliation proceedings.

285. One more case involved unequal treatment based on sex and possible discrimination against a woman with small children. Processing of the petition was subject to limitation due to the fact that a deadline for recourse to the Chancellor of Justice is four months as of the date when the person became aware or should have become aware of the alleged discrimination. By the time the petition was submitted, the Chancellor was no longer competent to deal with it. The petition was forwarded for review and opinion to the Gender Equality Commissioner whose competence includes monitoring compliance with requirements under the Gender Equality Act.

286. The NGO Legal Information Centre for Human Rights has noted that the activities of the Chancellor of Justice with regard to unequal treatment have been ineffective because the Chancellor has conducted few proceedings relating to ethnic or racial discrimination. It is also problematic that the Chancellor's conciliation proceedings are voluntary for the person suspected of discrimination.

287. In 2008, the Chancellor of Justice received 52 petitions concerning the principle of equal treatment, among them three requests for carrying out conciliation proceedings. In two of the cases, the proceedings were terminated because the respondent did not agree to the proceedings; one request is still pending.

288. One petition was concerned with an alleged harassment of a person due to their ethnic origin by a member of the board of an apartment association. The petitioner noted that the respondent had repeatedly posted on the notice board of the apartment association announcements addressed to the petitioner and including their name, citizenship, number of the apartment and unfounded accusations; the respondent misused their power by allowing unlawful activities in the building, and poorly performed their duties, failing to do elementary maintenance work. In this case the respondent did not reply to the Chancellor and therefore the Chancellor had to terminate the conciliation proceedings.



289. Another petition was concerned with an alleged unequal treatment in an employment relationship in connection with the payment of a bonus. The employer paid a bonus to employees for saving fuel. The petitioner did not receive the bonus. The petitioner found that the employer had treated them unequally in the payment of remuneration. Also in this case the respondent did not reply to the Chancellor and therefore the conciliation proceedings were terminated.

290. The third petition was concerned with a petitioner's alleged discrimination in the provision of services due to their political conviction. The petitioner wished to publish two announcements on the local cable TV channel but the respondent refused with a justification that the announcements had political content. The petitioner found that refusal to publish the announcements had been based on their political convictions. The respondent consented to the conciliation proceedings and the petition is currently pending.

291. In 2008, the Chancellor of Justice also received a few petitions concerning conformity of legislation with the Constitution, or activities of a public authority in connection with alleged treatment on the grounds of nationality or race. In one case the Chancellor found a conflict of a legal act with the prohibition on the grounds of nationality established under the second sentence of § 12(1) of the Constitution.

292. The Chancellor of Justice carried out proceedings on the basis of the information in order to verify compliance of Paldiski City Administration regulation No. 6 of 29 September 2003 "The procedure for admission to and exclusion from Paldiski kindergarten Naerulind", paragraph 2 first sentence, with § 12(1) of the Constitution and the EU Council Directive 2000/43/EC. Under the procedure, children below the school age permanently residing in the administrative territory of Paldiski and speaking Estonian, if the residence of a child and its parent is Paldiski according to the data of the population register, were admitted to the kindergarten. In cases of vacancies, children speaking Russian or other languages could also be admitted. Thus, upon admission to the kindergarten children were treated unequally depending on whether they spoke Estonian or another language. The Chancellor contacted Paldiski City Administration with an inquiry to find out the reasons for unequal treatment. Paldiski City Administration agreed with the Chancellor's considerations and amended the procedure by removing limitations concerning preference of children based on their language. Considering that Paldiski City Administration brought the relevant provisions into compliance with the Constitution, the Chancellor closed the proceedings.

293. The purpose of the Chancellor of Justice Act is to ensure simple, speedy and effective protection of the rights of individuals who have become victims of discrimination. A person's own assessment in cases of discrimination may be subjective. Therefore, the Chancellor in his conciliation proceedings proposes solutions which take maximum account of the victim's rights. In finding the solutions, it is necessary to rule out situations where a person gives up protecting his or her rights because the proceedings in which they would have to participate are excessively complicated.

294. In case of violations of the fundamental right to equality, the Chancellor may make a proposal or a recommendation to the Riigikogu, a state agency, or other representative of public authority (e.g. a recommendation to make a new decision or apologise to the petitioner).

295. The Chancellor of Justice lacks legal means of coercion (e.g. possibility of imposing a fine) to force compliance with his proposals. However, due to the Chancellor's strong authority in Estonian society, most of his proposals have been complied with.

296. Since 2004, Estonia has an independent and impartial Gender Equality Commissioner. With the Equal Treatment Act, the Commissioner's competencies were

expanded so as to include other types of discrimination (see also paragraphs 13, 33 and 34 under Article 2).

297. Under the Gender Equality Act, the Gender Equality and Equal Treatment Commissioner provides opinions to persons who have submitted applications concerning possible cases of discrimination and, if necessary, persons who have a legitimate interest in monitoring compliance with the requirements for equal treatment. The purpose of an opinion is to provide an assessment which, in conjunction with the Equal Treatment Act, the Gender Equality Act, international agreements binding on the Republic of Estonia and other legislation, allows for an assessment of whether the principle of equal treatment has been violated in a particular legal relationship. The Commissioner's opinion is an expert opinion and on this basis individuals can assess appropriateness of having recourse to the court. The proceedings conducted by the Commissioner do not involve considerable costs for individuals. In addition, the tasks of the Commissioner include counselling of individuals and providing assistance in submitting discrimination complaints. These functions of the Commissioner may be considered as measures supporting effective implementation of Article 6 of the Convention.

### **Victim support**

298. On 1 February 2004, the Victim Support Act entered into force, establishing the bases for state organisation of victim support, organisation of conciliation service, compensation of the cost of the psychological care paid within the framework of provision of victim support services and the procedure for payment of state compensation to victims of crime. In addition, the Act also defines the persons who are entitled to victim support services, compensation for the cost of psychological care and state compensation, and the conditions and procedure for applying for, granting and paying the specified compensations, as well as the procedure for the provision of conciliation service.

299. Victim support services consist of providing (initial) counselling and assistance to victims in communicating with different authorities. Eligible to victim support are all persons who have fallen victim to negligence, mistreatment or physical, mental or sexual abuse. Thus, all persons who have been caused suffering or damage may receive victim support, regardless of whether the person causing the damage has been ascertained or whether criminal proceedings against him or her have been initiated.

300. The provision of victim support services is ensured by the Social Insurance Board in accordance with the principle of regionality. The principle of regionality means that victim support workers provide the service in regions with the highest need for the service (e.g. depending on the level of crime, population density). For the provision of victim support services, victim support workers have established regional cooperation networks involving the police, emergency medical staff, health care workers, social workers, rescue service, neighbourhood watch, various NGOs, etc. Victim support workers must guarantee awareness of the inhabitants and participants in the victim support network in their region about the existence and accessibility of the service. Victim support coordinators are officials who organise provision of support to victims in their region. After an initial interview with a victim, they contact regional family centres, psychologists, support groups, self-help groups and other organisations which are competent to provide qualified assistance to victims, and refer the victim to those organisations.

301. Thirty-five victim support workers are employed by the Social Insurance Board which includes the victim support department. There are altogether 16 victim support centres all over Estonia, divided between four regions (North, South, East and West region) according to the distribution of police prefectures.

302. According to the cooperation agreement between the Social Insurance Board and the Police Board, victim support centres are located in local police stations and constable points. Under the cooperation agreement, with the consent of a victim the police provide information about cases of violence to victim support workers.

303. Information about the possibilities of using victim support services is available in local government offices, the police, rescue service, health care and welfare establishments and other relevant establishments. The Social Insurance Board official providing the victim support service is responsible for ensuring availability of information in all the above establishments.

304. Victim support workers were contacted in 3333 cases in 2006, in 3407 cases in 2007, and in 4013 cases in 2008.

#### **Conciliation of criminals and victims**

305. On 18 February 2007, an amendment to the Victim Support Act entered into force, enacting conciliation proceedings as part of the victim support system (i.e. conciliation of victims and criminals). To implement the law, twelve conciliators were trained among victim support workers. The task of a conciliator is to carry out conciliation proceedings and ensure that a conciliation agreement reflects the will of the parties, as it is developed and negotiated during the meetings within the conciliation proceedings.

306. In the case of a criminal offence in the second degree, the court may terminate criminal proceedings on the basis of conciliation if the criminal and the victim have successfully completed extrajudicial conciliation proceedings, i.e. have reached a conciliation agreement. The precondition for terminating the proceedings is that the case involved a criminal offence in the second degree which did not result in the death of the victim, a written conciliation agreement has been concluded via a conciliator, no public interest in the continuation of the criminal proceedings exists, and the suspect or accused and the victim consent to the termination of the criminal proceedings.

307. The Prosecutor's Office or court sends the order or ruling on application of conciliation proceedings to the Social Insurance Board for organising conciliation. A conciliator appointed by the Social Insurance Board victim support department contacts the victim and the suspect or the accused. A conciliation agreement shall contain the procedure and conditions for remedying of the damage caused by the criminal offence. Parties to the conciliation agreement may agree on other conditions and obligations not mentioned in the law if these do not contradict other laws and good practices. The conciliator monitors compliance with the obligations laid down in the conciliation agreement. To do this, the conciliator has the right to request information and documents for confirmation of the performance of the obligation.

308. In 2007, 36 rulings on conciliation proceedings were sent to the Social Insurance Board victim support department by the circuit prosecutor's offices, and 109 rulings in 2008.

#### **Article 7**

309. Estonia's second integration strategy (2008–2013) was described under Article 2.

310. Knowledge of the Estonian language has an important pragmatic meaning for the Russian-speaking population. Knowledge of Estonian is a precondition for applying for Estonian citizenship, and language proficiency also increases a person's competitiveness on the labour market, expands possibilities for studying and raises self-confidence.

Table 12  
**Self-assessment of the Estonian language proficiency among the Russian-speaking population in Estonia 1989–2008**

	No proficiency	Passive: I understand a little but do not speak	Passive: I understand and speak a little	Active: I understand, speak and write a little	Fully proficient
1989	23%	47%*		15%	12%
1991	21%	53%*		14%	8%
1995	21%	56%*		13%	7%
2003	12%	26%	27%	18%	9%
2005	14%	26.5%	29%	21%	6%
2008	19%	25%	24%	17%	15%

*Sources:* 1989 survey “Life in Estonia” by Tartu State University department of journalism; 1991 survey “Estonia in March” by Tartu State University and Mainor Company; 1995 Emor; 2003 “I. The World. The Media” by Tartu University department of journalism and communication – Faktum; 2005 “I. The World. The Media” by Tartu University department of journalism and communication – Saar-Poll; 2008 “Integration monitoring survey”.

\* In the surveys of 1989, 1991 and 1995 passive language proficiency was not divided into two levels.

311. Language proficiency of Russian-speaking inhabitants (in particular younger people) has improved, and Russian citizens residing in Estonia (mostly older people) assess their knowledge of Estonian increasingly critically.

312. Language proficiency is significantly affected by a person’s place of residence. Significant differences exist regionally. The smaller the Russian-speaking community in a region the better their knowledge of Estonian.

Table 13  
**Assessment by the Russian-speaking population of the sufficiency of their knowledge of Estonian for living in Estonia (%)**

Assessment of language proficiency	1995	1996	2002	2005
Sufficient	28	31	44	48
Insufficient	55	57	53	49
Cannot assess	17	12	3	3

Report of the “Integration monitoring survey” (2005: 25).

313. Better language proficiency among the younger Russian-speaking inhabitants is also reflected in their higher self-confidence. More than half of them (54%) consider their Estonian language proficiency to be sufficient for living in Estonia, while 45% of young people feel that their knowledge of Estonian is not sufficient for living in Estonia. Better knowledge of Estonian is a key factor affecting attitudes of young Russian speakers and creating preconditions for them to understand Estonian citizenship policy.

314. On average three fourths of the Russian-speaking population use Estonian as a medium of communication either constantly or from time to time. Regardless of the status of Estonian as the official state language, there are Russians (slightly more than a quarter) who do not use Estonian at all or only do it in isolated cases.

315. According to the assessment of the Russian-speaking inhabitants, Estonian language proficiency is necessary for getting a good job (75%), increasing mutual trust (68%) and demonstrating aspiration (60%). According to the assessment of young people who are acquiring higher education, Estonian language proficiency is a precondition for integration and the level of language proficiency determines the extent to which a person feels integrated in society.

316. Most of the larger companies offer Estonian, English as well as Russian language training for their employees. Employers were of the opinion that the situation of Estonian and Russian young people on the labour market was changing: if previously Russian-speaking younger people were in a worse situation, now they often know very good Estonian. And as a large proportion of young Estonians do not know Russian then younger Russians with knowledge of several languages can more easily cope on the labour market.<sup>7</sup>

### **Measuring proficiency in Estonian as a second language**

317. The tradition of teaching Estonian as a second language and measuring proficiency in it is not yet very long. During the Soviet period, Estonian was taught in Russian-speaking schools in Estonia but in many schools it was simply a formality. No language courses were organised for adult people who arrived in Estonia from other regions of the Soviet Union. Under the 1989 Language Act, Estonian language proficiency requirements were established for all workers who needed Estonian in the performance of their work duties. Language proficiency was assessed on a six-level scale: A, B, C, D, E and F where A was the lowest level and F indicated command of the language. At the language category examinations, proficiency was determined on the basis of tickets. For each category, 6–10 sample tickets were compiled. On this basis, organising of short-term language courses (20–60 hours) began, during which the material necessary for passing the examination was covered. Examiners assessed the performance at the examination on the basis of a general impression without using any assessment guidelines or scale.

318. In November 1995, Estonian language examinations for applicants for Estonian citizenship began to be organised in the form of a uniform and standardised test.<sup>8</sup> The test was drawn up with the help of experts from the Council of Europe. In accordance with the Estonian language proficiency requirements under the Citizenship Act, the test corresponded to the second level (Threshold Level User) established by the Association of Language Testers in Europe (ALTE). Intermediate level proficiency requirements were drawn up on the basis of the “Estonian Language Threshold Level” (based on the Threshold Level published in Estonian in 1996) prepared within the framework of a Council of Europe project. Basic and advanced level proficiency descriptions were prepared by the National Examinations and Qualifications Centre.<sup>9</sup>

319. Since 1 July 2008, proficiency in Estonian as a second language is measured at proficiency examinations which correspond to the language proficiency levels described in the Common European Framework of Reference for Languages. It is possible to pass examinations on levels A2, B1, B2 and C1. Examinations take place in the form of a test for listening comprehension, reading comprehension, writing and speaking. It is possible to score 100 points. Examinations can be taken at the examination points of the National

<sup>7</sup> Public tender No. 034118 “Drawing up the State Integration Programme 2008–2013”, 2008.

<sup>8</sup> Three language proficiency levels – basic, intermediate and advanced – were used for assessing the Estonian language proficiency until 1 July 2008.

<sup>9</sup> Since 1998, the Estonian National Examinations and Qualifications Centre is an associated member of ALTE, <http://www.ekk.edu.ee/>

Examinations and Qualifications Centre, located in Jõhvi, Narva, Tallinn and Tartu. In all the examinations points, examinations for all the proficiency levels take place 4-10 times a year. The number of examinations depends on the number of examinees. Taking of examinations, including repeat examinations, is free of charge since 2002. In case of failure, the person may register to re-sit an examination in three months.

320. The Committee in paragraph 9 of its concluding observations expressed concern that the definition of national minority, provided under the 1993 National Minorities Cultural Autonomy Act, excludes persons with undetermined citizenship, which might lead to the alienation of that group from the Estonian State and society. The Government would like to note that the narrower definition provided under the Act has a historical and political significance. In practical application of the rights of national minorities no arbitrary and unjustified distinction between citizens and non-citizens is made. The rights of national minorities in Estonia are guaranteed under the Constitution and other Acts, which do not distinguish between persons depending on their race, colour, religion, mother tongue, political or sexual preferences. The only restrictions on the grounds of citizenship are that persons with undetermined citizenship cannot participate in parliamentary elections or serve in the Defence Forces. All social guarantees also extend to all the permanent residents, regardless of their citizenship. All people living in Estonia may also participate in local government elections.

321. Under § 6 of the National Minorities Cultural Autonomy Act, all members of the relevant national minority may participate in the activities of cultural and educational establishments and religious congregations of their national minority, but they cannot elect or be elected to the management bodies of cultural self-governments of national minorities. There are two cultural self-governments of national minorities in Estonia (Ingrians since 2004 and Swedes since 2007). The topic of cultural autonomy was also explained under the “Integration” section in Estonia’s sixth and seventh report.

322. Most of the ethnic groups have decided to create national cultural societies for developing and preserving their national culture. A national cultural society is a non-profit association and their members can be persons with undetermined citizenship as well as citizens of other countries. There are more than 200 national cultural societies operating in Estonia.

323. No restrictions on the grounds of nationality, race or other characteristics exist for participation in cultural life and culture-creation. All societies and collectives of national minorities may apply for support for their activities on an equal basis with Estonian cultural societies. In addition, the state supports cultural associations of national minorities financially from the state budget.

324. State support is available to cultural self-governments as well as cultural societies of other nationalities, and the amount of support has increased year by year.

325. Since 2004, funds from the state budget have been allocated for the Minister for Population and Ethnic Affairs earmarked for cultural societies of national minorities (in 1991-2003 the funds were in the budget of the Ministry of Culture). All officially registered cultural societies of national minorities may apply for support.

326. Basic financing of national cultural societies takes place through the Integration Foundation. In 2007, 35 051 313 kroons were allocated for basic financing, and support was given to 155 organisations. In addition, the Integration Foundation supported implementing of 29 projects with a total sum of 600 000 kroons. The aim of the

competition is to support preservation of the language and culture of ethnic minorities through the activities of national cultural societies and artistic collectives.

327. The cultural diversity department was created in the Ministry of Culture in 2007 and from the same time the Ministry also has a Deputy Secretary General in charge of the relevant field. In addition, the national minorities cultural advisory council was formed under the Ministry of Culture. The council meets regularly to discuss and find solutions to problems of national minorities in Estonia in a dialogue with state authorities.

328. The Ministry of Culture is also preparing a Draft Act for the amendment of the National Minorities Cultural Autonomy Act with the aim to update it. The intention is to introduce amendments to the Act the need for which has appeared in the operation of the existing cultural self-governments – for example, the current Act does not clearly define the legal status of cultural self-governments.

329. The amendments would also specify the procedure for granting the right of operation to cultural self-governments, or more specifically the procedure for authorising a particular cultural society to draw up the list of members of a national minority (e.g. requirements for a cultural society).

330. The current Act has also shortcomings with regard to the competence, financing and state supervision of management bodies of cultural self-governments. There is also some terminological confusion in the Act (e.g. terms cultural government/ cultural self-government/ cultural self-government body). Such inconsistencies would also be eliminated.

331. The language and culture of national minorities is also supported by local authorities, e.g. Tallinn is preparing an integration strategy. In connection with this, a project competition has been announced in the framework of which the activities of societies as well as drawing up of the Tallinn integration strategy are supported. National minorities also receive support from private foundations and through foreign embassies.

332. The Committee in paragraph 12 of its concluding observations expressed concern that some television programmes may portray discriminatory images of the Roma community and that insufficient measures have been taken to address this situation. The Public Media Council and the Press Council (see also paragraphs 145-146 of the report) discuss complaints against the public media and the Public Media Council also draws attention to problems of media ethics on its own initiative. According to the assessment of media experts, Estonian television channels respect and observe the principle of prohibition of racial and ethnic discrimination.

333. The Committee's concluding observation No. 20 concerns the problem that only 4.8 per cent of Estonian Television has programming in Russian or bilingual programming or programming with subtitles (2003 data). In response, it could be noted that in 2003 there were 284 hours of such programming on public Estonian Television, in 2007 it had risen to 408 hours, and in 2008 to an estimated 420 hours. Increase of the amount of programming in Russian can also be expected in 2009 if the budgetary possibilities of the Estonian National Broadcasting allow them to expand the programming on the second public television channel ETV2. According to the plan, the channel would have several hours of programming in Russian every day and thus non-Estonian viewers would be able to see considerably more programmes in Russian or with Russian subtitles. This should significantly improve the possibilities of minority groups to follow diverse programming on public television and be better informed of events in Estonia and the world.

334. Besides the Estonian television, several private television channels in Russian operate in Estonia. In addition, some larger television stations in cooperation with the local producer offer programming in Russian (e.g. in Narva and Maardu).

335. In addition, the majority of Estonian population have access to dozens of Russian television programmes via cable television.

336. Estonian National Broadcasting offers radio programmes in Russian via Radio4 for 24 hours a day 365 days a year. Radio4 also has weekly programmes for Ukrainians, Belarusians, Jews and Armenians. In 2007, Estonian National Broadcasting opened an information portal novosti.err.ee in Russian and its popularity is constantly growing. The portal publishes all the main news which appear in the printed, electronic or online media. The purpose of the portal is to develop a topical and up-to-date news environment covering news from both the printed press and the audio-visual media. The system and possibility for live broadcasts is also being developed.



## Annex

### Study materials for Holocaust

#### Textbooks:

1. Mart, Laar, Eha Hegauk, Maria Tilk. Ajalugu viiendale klassile. History for fifth grade, Avita, 2002 (reprint), p. 192.
2. Einar Värä, Tõnu Tannberg, Ago Pajur. Lähiajalugu I osa. Õpik 9. klassile Recent history part one. Textbook for ninth grade, Avita, 2004 (reprint), p. 116-117.
3. Andres Adamson, Sulev Valdmaa, Eesti ajalugu. Estonian history, Koolibri 2001 (reprint), p. 196.
4. Mati Laur, Tõnu Tannberg, Ago Pajur. Eesti ajalugu II. Estonian history part two, Avita 1999.
5. Andres Adamson, Toomas Karjahärm. Eesti ajalugu. Estonian history , Argo 2005.
6. Lauri Vahtre. Eesti ajalugu. Estonian history, Ilo, 2005.
7. Andres Adamson, Jüri Ant, Marko Mihkelson, Sulev Valdmaa, Einar Värä. Lähiajalugu. Õpik XII klassile, Recent history. Textbook for twelfth grade, Argio, 2003, p. 108–109.
8. Andrei Fjodorov. XX sajandi ajalugu. Õpik gümnaasiumile II osa 1939–2000. XX century history. Textbook for gymnasium part two 1939–2000, Avita, 2002, p. 174.
9. Baltimaade ajaloo õpik. The Baltic States history textbook, Avita, 1999, p. 174.
10. Baltimaade ajaloo lugemik. The Baltic States history reading-book, Avita, 2001, p. 187–190.

#### Books:

1. Stephane Bruchfeld, Paul A. Levine, Jutustage sellest oma lastele... Raamat holokaustist Euroopas aastatel 1933-1945. Tell about this to your children...A Book about the Holocaust in Europe 1933–1945, Tartu, 2003.
2. Ajalugu ei ole ainult minevik. Minevik ei ole veel ajalugu. Ajalooõpetaja käsiraamat. History is not only the Past. The Past is not yet the history. A Teacher's resource book for History Education in Estonia, Eesti Ajalooõpetajate Selts, 2004, p. 88–112.
3. 2005. aastal eesti ja vene keeled tõlgitud Inimsusvastaste Kuritegude Uurimise Eesti Rahvusvahelise Komisjoni raportid (Nõukogude okupatsioon 1940–1941. Saksa okupatsioon 1941–1944). Estonian International Commission for the Investigation of Crimes against Humanity reports (Soviet Union occupation 1940–1941. German occupation 1941–1944). Translated into Estonian and Russian in 2005.
4. Benjamin Anoliku mälestusraamat "Mälu missioon" Tallinn 2005. Benjamin Anolik meenutab elu Eesti laagrites, ka Kloogal. Benjamin Anolik's memories "Memories mission", Tallinn 2005. Benjamin Anolik recalls the life in Estonian prison camps, also in Klooga.

5. Elhonen Saks. Kes on juudid ja mis on holokaust? Tallinn 2003, mis annab ülevaate juudi rahva ajaloost, holokaustist ja Eesti juudi kogukonnast. Who are the Jews and what is a Holocaust. Tallinn 2003. Gives a review of Jewish Nation history, Holocaust and Estonian Jewish community.
6. Koostöös Living History Foorumiga on koostatud käsiraamat õpetajatele Holokaust. Lisaks ka cD ja DVD. Tallinn: 2007. Teachers resource book Holocaust composed in cooperation with Living History Forum. In addition CD and DVD. Tallinn: 2007.

### **Films:**

1. 2005. aastal inglisekeelne video "Outcast" (eesti keeles "Väljatõugatud"), mis toob vaatajani juutide elu Saksamaal Teise maailmasõja eel. Video "Outcast" (in Estonian "Väljatõugatud") in English, year 2005. Brings to the public Jews life in Germany during the Second World War.
2. Irina Stelmachi film "Su nimi olgu Israel", kus tutvustatakse koonduslaagrites vangistuse läbi elanud Helga Verlegeri elu. Selle juurde on koostatud ka CD-l olev õpetaja juhendmaterjal. Irina Stelmach's film "Your name shall be Israel". The film introduces Helga Verleger's life who lived through the imprisonment in prison camps. There to has been composed also teachers resource material.

### **Web pages:**

<http://www.muuseum.harju.ee/holokaust/>

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