

ECRI REPORT ON ESTONIA

(fourth monitoring cycle)

Adopted on 15 December 2009

Published on 2 March 2010



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FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 3 July 2009 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

SUMMARY

Since the publication of ECRI's third report on Estonia on 21 February 2006, progress has been made in a number of fields covered by that report.

The Equal Treatment Act, which prohibits discrimination based on, among other grounds, ethnic origin, race, colour and religion, entered into force on 1 January 2009. The Act prohibits discrimination in employment, education, social protection, including social security and healthcare and social advantages, as well as access to and supply of goods and services available to the public, including housing. Article 27 of the Equal Treatment Act amends Section 10 of the Law on Employment Contracts to prohibit discrimination against a person applying for employment or an employee on, among other grounds, ethnic origin, race, colour, religion or other beliefs and level of language proficiency. This article also amends Section 10 of the Law on Employment Contracts to provide that allowing a suitable working and rest time regime, which satisfies the religious requirements of an employee, shall not be considered discrimination. This amendment places an obligation on an employer to comply with the principle of equal treatment.

ECRI is pleased to note that the Equal Treatment Act is, generally, in conformity with its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. The Gender Equality and Equal Treatment Commissioner and the Legal Chancellor are the bodies entrusted with, respectively, monitoring compliance with the Act and resolving discrimination disputes through conciliation proceedings.

Since ECRI's third report, the Estonian authorities have adopted an Estonian Integration Strategy 2008-2013, which is a follow-up to the Integration in Estonia Strategy 2000-2007, and aims to ensure the integration of, among others, Russian-speaking minorities and stateless persons at the following three levels: 1) educational and cultural; 2) social and economic, and 3) legal and political. The Estonian authorities have informed ECRI that a mid-term review of the implementation of this strategy will be carried out in 2010. The Estonian Integration Strategy 2008-2013 contains a number of wide-ranging goals to address issues of concern to Russian-speaking minorities and stateless persons, including providing Estonian language lessons, combating inequalities between Russians and Estonians in the employment sector, reducing the number of stateless persons as well as preserving the culture and identity of ethnic minorities.

In 2007, Estonia joined the Task Force for International Cooperation on Holocaust Education, Remembrance and Research and a *Teacher's Guide to the Holocaust*, compiled, among others, by the Estonian History Teachers' Association and co-financed by the authorities, was made available to teachers. In addition, in accordance with the law which provides for mother tongue teaching at the request of the parents of at least 10 children, two schools (1 for Ukrainian and 1 for Italian children) are operating with government funding.

In the aftermath of the clashes in April 2007 over the removal of the Soviet Soldier (Bronze Soldier), on 1 February 2008, the Memory Institute was created under the leadership of the country's President with the task of examining the systematic violations of human rights in Estonia, and in regard to citizens of the Republic of Estonia in 1944-1991. The Estonian President stated that the research of this institute is necessary in order to get over the past without hate and prejudice and to cope with the present.

ECRI welcomes these positive developments in Estonia. However, despite the progress achieved, some issues continue to give rise to concern.

Estonia has still not ratified Protocol No. 12 to the European Convention on Human Rights, which ECRI considers of primary importance for combating racism and racial discrimination at national level.

The provisions of the Criminal Code regarding racism are still very rarely implemented, primarily due to Article 151 which criminalises activities which publicly incite hatred, violence or discrimination on the basis of, among others, nationality, race, colour, language, origin or religion, only if they result in danger to the life, health or property of a person. Therefore, ECRI considers that the Criminal Code does not, in fact, punish hate speech independently of specific consequences as recommended in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

While recognizing that, at the time of writing, the above-mentioned Equal Treatment Act was relatively new, measures to train judges, prosecutors, employers and employment agencies as well as public servants on this law are necessary to ensure its full implementation.

Although measures have been taken since ECRI's third report to reduce the number of stateless people in Estonia, further measures are still necessary to that end as that group comprises approximately 8% of the population. In the field of education, the implementation of the reform, established by the Basic Schools and Upper Secondary Schools Act setting the 1st of September 2007 as the deadline for beginning the partial transition of teaching some subjects in Estonian in all upper secondary schools, has highlighted the need for further training of teachers in Russian-speaking schools to prepare them for these reforms. Minority groups continue to lag behind Estonians in the employment market and according to figures provided by the Estonian authorities in 2007 for the period before the economic crisis, the unemployment level among Estonians was 3.6% while among other ethnic groups it was 6.9%.

Roma are particularly vulnerable to discrimination in employment and continue to be the subject of stereotypes and prejudice, sometimes carried by the media, and Roma children continue to be placed in specialised schools for disabled children when they are not disabled. A high dropout rate and late entry into the school system also continues to be noted among Roma children.

Improving the preparation of those wishing to sit for the citizenship examination, including as concerns the provision of good quality Estonian language lessons is still necessary. Furthermore, a dialogue between the Estonian authorities and stateless persons and Russian-speaking minorities on the issue of the citizenship examination, which is not always perceived positively by members of these groups, is still necessary.

The role of the Language Inspectorate in ensuring adequate knowledge of Estonian in the private and public employment sectors is still not the subject of monitoring, although it is perceived in a negative manner by some minority groups. A law on the rights of national minorities has still not been adopted, although minority representatives have expressed to ECRI their wish for such a law.

Measures taken to combat racially-motivated crimes still need to be improved in terms of police registration of such crimes as well as their treatment of the victims as reports indicated lacunae in this area, including police failing to act when racially-motivated crimes are reported to them. The authorities further need to improve their response to antisemitic acts.

Overall, ECRI's impression is that more follow-up should have been given to the recommendations made in its third report.

In this report, ECRI requests that the Estonian authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.

ECRI urges Estonia to ratify Protocol No. 12 to the European Convention on Human Rights, which it signed on 4 November 2000, as soon as possible.

Concerning the provision of good quality Estonian language lessons, ECRI encourages the Estonian authorities to deliver planned free Estonian language courses to non-Estonian speakers, including stateless persons, irrespective of whether or not they pass the language portion of the citizenship examination, and recommends that the necessary human and financial resources be provided to that end.

As regards the role of the Language Inspectorate, ECRI recommends that the Estonian authorities establish a monitoring mechanism for the work of the Language Inspectorate. It also recommends regular consultation with representatives of Russian-speaking minorities on the work of the Language Inspectorate in order to improve the manner in which it is perceived by members of this group.

ECRI recommends that the Estonian authorities amend the Criminal Code in order to clearly punish all racist crimes and draws their attention to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. Regarding the Equal Treatment Act, ECRI recommends that Estonian authorities further strengthen this Act by, inter alia, covering discrimination based on language and citizenship. ECRI recommends that the Estonian authorities take further steps to raise public awareness of the Equal Treatment Act and that measures aimed specifically at minority groups be taken.

ECRI recommends that the Estonian authorities take all possible measures to ensure the quality of education while strengthening Estonian language instruction to Russian-speaking children and respecting their identity. This should include monitoring the achievement levels of children and strengthening the training of Russian-language school teachers to teach in Estonian in accordance with the reforms set out in the Basic Schools and Upper Secondary Schools Act, by inter alia, investing the necessary human and financial resources to that end.*

With regard to the bodies established to monitor compliance with the Equal Treatment Act and to carry out conciliation proceedings under this Act (the Gender Equality and Equal Treatment Commissioner and the Legal Chancellor), ECRI recommends that the Estonian authorities take measures to raise awareness, among the public in general and members of minority groups in particular, of these bodies' role under the Equal Treatment Act.

ECRI recommends that the Estonian authorities continue measures taken thus far to reduce the number of stateless persons, in full consultation with representatives of the concerned persons.*

Regarding the situation of Roma, ECRI recommends that the Estonian authorities take measures to address problems faced by this group, such as prejudices and stereotypes as well as discrimination in, among others, the employment sector.

ECRI urges the Estonian authorities to remove Roma children who are not disabled from special schools and reintegrate them into mainstream schools; all necessary steps should further be taken to avoid such unjustified placements in the future.*

* The recommendation in this paragraph will be the subject of a process of interim follow-up by ECRI no later than two years after the publication of the report.

ECRI encourages the Estonian authorities to strengthen efforts undertaken to combat antisemitism and recommends that they draw guidance from its General Policy Recommendation No. 9 on the fight against antisemitism to that end.

ECRI also recommends that the Estonian authorities adopt a law on the rights of national minorities, in consultation with representatives of minority representatives, a wish expressed to ECRI by several representatives of minority groups.

Finally, ECRI makes a number of recommendations concerning the police, including that they take measures to combat racism and racial discrimination within the police by, inter alia, training the police in human rights, including the right to be free of racism and racial discrimination, as recommended in its General Policy Recommendation No. 11 on combating racism and racial discrimination policing.

FINDINGS AND RECOMMENDATIONS

I. Existence and Implementation of Legal Provisions

International legal instruments

1. In its third report, ECRI reiterated its recommendation that Estonia ratify Protocol No. 12 to the European Convention on Human Rights.
2. Estonia has not yet ratified Protocol No. 12 to the European Convention on Human Rights. ECRI wishes to stress to the Estonian authorities the importance of ratifying this Protocol, which enables acceding States to provide greater protection against racial discrimination at national level.
3. ECRI urges Estonia to ratify Protocol No. 12 to the European Convention on Human Rights as soon as possible.
4. In its third report, ECRI recommended that Estonia ratify ILO Convention 111: Discrimination (Employment and Occupation) as soon as possible and that it make a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination.
5. Estonia has ratified ILO Convention 111: Discrimination (Employment and Occupation). However, it has not made a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination, which would enable individuals or groups of individuals within Estonia's jurisdiction to make a complaint before the Committee on the Elimination of Racial Discrimination. ECRI notes with interest Estonia's statement that it intends to make this declaration.
6. ECRI recommends that Estonia make a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination.
7. In its third report, ECRI further reiterated that Estonia ratify, as soon as possible, the UNESCO Convention against Discrimination in Education, the European Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on Nationality. ECRI also recommended that Estonia ratify the Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
8. Estonia is not yet party to the UNESCO Convention against Discrimination in Education and it has neither signed nor ratified the European Convention on the Participation of Foreigners in Public Life at Local Level or the European Convention on Nationality. On 28 January 2003, Estonia signed the Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, but it has not yet ratified this instrument. Estonia has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
9. ECRI recommends that Estonia ratify the UNESCO Convention against Discrimination in Education, the European Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on Nationality. ECRI further recommends that Estonia, ratify as soon as possible, the Additional Protocol to the Convention on cybercrime, concerning the

criminalisation of acts of a racist and xenophobic nature committed through computer systems. ECRI recommends, furthermore, that Estonia ratify the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families.

Citizenship legislation

10. In its third report, ECRI recommended that the Estonian authorities provide high quality free-of-charge language lessons to stateless people who wish to sit for the citizenship examination, whether or not they pass the language portion of this examination.
11. According to statistics provided by the Estonian authorities, there were 107,670 (approximately 8% of the population) stateless persons¹ in Estonia as at 1 July 2009, the majority of them being Russian-speaking. Article 8 1) of the Citizenship Act provides that, for those wishing to acquire Estonian citizenship, up to 100% of the fee for Estonian language training paid to a private school by a person who has passed the requisite Estonian language examination and the examination on the knowledge of the Constitution and the Citizenship Act shall be reimbursed within the limit established by the government². Therefore, only those who pass these examinations shall obtain the reimbursement, the result being that many stateless persons are obliged to have recourse to private fee-paying schools in order to prepare for these examinations.
12. The Estonian authorities have informed ECRI that since 2005, the principles governing the citizenship examination have not changed. ECRI notes with interest that as of September 2009, the authorities plan to provide free Estonian language courses to non-citizens. They have indicated that passing the examination or applying for citizenship will no longer be a pre-requisite for taking part in these courses. This new measure will thus go some way in implementing the above recommendation.³ The Integration Foundation further provides free of charge Estonian language lessons.
13. A government commissioned study⁴ has highlighted a number of areas where improvements in the current system for preparing language examination candidates could be made, including improving access to handbooks as they are only available on the Internet. The study has also concluded that the Estonian language used in the handbooks should be made simpler (partially translated into Russian in view of the number of Russian-speakers who take the examination) and be available on forums other than the Internet.⁵ ECRI hopes that these recommendations will be taken into consideration as easy access to free-of-charge Estonian language courses remains one of the challenges faced by stateless persons and other non-citizens in preparing for the citizenship examination.
14. ECRI encourages the Estonian authorities to deliver the planned free Estonian language courses to non-Estonian speakers, including stateless persons,

¹ For more information on the situation of stateless persons, see “Vulnerable/Target Groups” below.

² Since 1 January 2009 the full cost is, in practice, reimbursed.

³ For language training for the unemployed, see “Discrimination in Various Fields/Employment” below. The authorities have also informed ECRI that there are free language-courses for public-sector priority groups, such as teachers, policemen, rescue workers, nurses and youth workers; in addition, for those working in the fields of education and policing, there are exchange programmes, which include language training and working in an Estonian-speaking environment.

⁴ Motivation to Learn the Estonian Language and Pass the Proficiency Examination, Commissioned by the Ministry of Education and Research and Office of the Minister of Population, Laura Kirss, MA and Mare Karu, MA, Tartu 2008.

⁵ Ibid, p. 7.

irrespective of whether or not they pass the language portion of the citizenship examination, and it recommends that the necessary human and financial resources be provided to that end.

15. In its third report, ECRI recommended that the Estonian authorities put in place a policy whereby members of the national school examination board are required to be present whenever non-Estonian primary school students take the Estonian language examination in order to enable them all to be exempt from the language portion of the citizenship examination.
16. As indicated in ECRI's third report, all non-Estonian primary school pupils - who are mainly schooled in Russian schools - are required to take an Estonian language examination prior to entering secondary school. The presence of the national examination board at this examination exempts these pupils from sitting for the language portion of the citizenship examination. ECRI has been informed by civil society actors that the issue of the national examination board's presence at these examinations remains, but that the onus is on the school to invite the board prior to the examinations, and that therein lies the problem. It thus appears that schools need to improve their action in this area, as it would facilitate the ability of many stateless pupils, most of whom study in Russian schools, to acquire Estonian citizenship.
17. ECRI recommends that the Estonian authorities take measures to encourage non-Estonian primary schools to systematically ensure that a member of the national examination board is present whenever pupils sit for their Estonian language examination in order to enable them to be exempt from the language portion of the citizenship examination. It further recommends carrying out information campaigns for non-Estonian schools on the benefits of this measure.
18. In its third report, ECRI reiterated its recommendation that the Estonian authorities examine, on a case-by-case basis, the situation of retired military personnel and their spouses who wish to acquire Estonian citizenship.
19. ECRI is not aware of any changes to the Citizenship Act which would enable former military and security personnel and their spouses to acquire Estonian citizenship. This Act still provides that Estonian citizenship shall not be granted or restored to a person who has been employed or is currently employed by foreign intelligence or security services. This piece of legislation also provides that Estonian citizenship shall not be granted or restored to a person who has served as a professional member of the armed forces of a foreign state or has been assigned to the reserve forces thereof or has retired there from nor shall it be granted or restored to his or her spouse who entered Estonia due to a member of the armed forces being sent into service, the reserve or into retirement.⁶ ECRI considers that the situation of retired military and security personnel and their spouses who wish to acquire Estonian citizenship should be examined on a case-by-case basis. It wishes in this regard to bring to the Estonian authorities' attention Article 5 of the European Convention on Nationality, which prohibits distinctions or practices in the rules on nationality which amount to discrimination on the grounds of, inter alia, religion, race, colour or national or ethnic origin.
20. ECRI recommends again that the Estonian authorities take measures to ensure that the situation of retired military and security personnel and their spouses who wish to acquire Estonian citizenship is examined without any discriminatory impediments.

⁶ Article 21 5) and 6) of the Citizenship Act.

Language Law

21. In its third report, ECRI reiterated its recommendation that the implementation of the Law on Language be closely monitored by the Estonian authorities. It recommended in this regard that the role and powers of the Language Inspectorate be clearly defined by law and subject to a monitoring system, especially with regard to the language proficiency in the private sector.
22. The Language Inspectorate is empowered to carry out previously agreed-upon or on-the-spot visits in both the private and public employment sectors to assess employees' knowledge of Estonian. The Language Inspectorate can impose fines where a lack of sufficient Estonian knowledge is noted or order that a person take measures to meet the language requirements for his job. The Language Inspectorate has the power to recommend the dismissal of an employee whose language proficiency for his job does not correspond to the level required by the law or does not correspond to the proficiency indicated on his language certificate and if the employee fails to re-sit the new proficiency examination to prove his knowledge of Estonian. Civil society actors have informed ECRI that new categories of language proficiency, which require employees to re-sit the language examination and obtain new language certificates, have been created.
23. The role of the Language Inspectorate is not always perceived in a positive manner by Russian-speaking communities⁷. Some representatives of Russian-speaking minorities have informed ECRI that in their opinion, the Language Inspectorate enjoys seemingly limitless powers, although they have also stated their agreement with the Language Inspectorate's assessment that Estonian language skills among Russian-speaking minorities need improvement. They also consider that the results noted by the Language Inspectorate are not congruent with the financial resources invested in teaching Estonian language to members of minority groups. The authorities have informed ECRI that the Language Inspectorate has always been monitored by the Ministry of Education and Research, which has received no complaints in this regard. ECRI recognizes the Estonian authorities' legitimate right to ensure adequate knowledge of Estonian by all residents to avoid the creation of a two-tier society. It also considers that measures taken to that end should be proportionate to the aim sought and respect the existence of a sizeable minority in the country which speaks another language, namely Russian. Recourse to punitive measures should be avoided as much as possible and steps taken to provide adequate opportunities for target groups to learn Estonian at the level required for their job, including free-of-charge Estonian language lessons. As regards the Language Inspectorate's "monitoring" by the Ministry of Education and Research, ECRI recalls that in all member states individuals may address petitions to the ministry which is competent over a public-sector body's field of activities. As the authorities have confirmed, the possibility to address petitions to the Ministry of Education and Research about the Language Inspectorate existed before ECRI's third report on Estonia. Moreover, the authorities have not submitted any information regarding the measures that the Ministry may order following the examination of a petition. In these circumstances, ECRI considers that its third-report recommendation regarding monitoring of the Language Inspectorate should be reiterated.
24. ECRI again recommends that the Estonian authorities establish a monitoring mechanism for the work of the Language Inspectorate. It also recommends regular consultation with representatives of Russian-speaking minorities on the work of the Language Inspectorate in order to improve the manner in which it is

⁷ For more information on this group, see "Vulnerable/Target Groups" below.

perceived by members of this group. ECRI recommends that support mechanisms such as free Estonian language courses be provided to employees who are required to re-sit their Estonian language proficiency examination because of the re-categorisation of the language proficiency level required for their job.

25. In its third report, ECRI strongly recommended that the Estonian authorities provide good quality, free-of-charge Estonian language courses for non-Estonian speakers in order to improve their integration into society. It recommended in this regard that the different needs of minority groups be taken into account for such language courses and that they be extended to the whole country.
26. The above-mentioned study⁸, which carried out research on the type of language training received by persons who sat for the Estonian language proficiency examination, noted that those who take it at an advanced level acquired their language skills primarily in institutions of higher education while those at the basic and intermediary levels did so mainly at language courses provided by the Integration Foundation and through free language courses made available by this body. As concerns language courses, the study noted that respondents were reasonably satisfied with the different aspects of the courses and that they were most satisfied with the development of work-related language skills, the individual approach and the volume of courses.⁹ The Estonian authorities have noted that in 2005, 42% of the Russian-speaking population could actively speak Estonian (i.e. could communicate “well” or “at an intermediate level”) and that in the last few years, the level of Estonian language proficiency has remained stable among the adult population whose mother tongue is not Estonian and has increased among the young.¹⁰ The authorities have also noted significant differences in the command of Estonian from region to region: in 2005, in Tallinn, 16% of Estonian Russians, according to their own assessment, could not speak Estonian, whilst in Narva, the capital of the Ida-Virumaa County (which is in the North-East of the country) this number was 62%.¹¹ The above-mentioned study found that those who have registered for language examinations would like language studies to offer them more opportunities to practice and to be cheaper. It further noted that people would like to see free language courses, longer courses, development of practice opportunities and more varied study aids. According to the study, the majority of respondents took the examination for job requirements, to find employment or to continue their studies in an Estonian-language education institution. The Estonian Integration Strategy 2008-2013 has established as one of its goals improving the level of command, at all levels, of the Estonian language among persons whose mother tongue is not Estonian. ECRI stresses the important role that enabling all members of the population to master Estonian can play in fostering integration and hopes that measures taken in this respect as part of the Integration Strategy will address the concerns expressed in the government commissioned study.
27. ECRI recommends that the Estonian authorities continue and strengthen measures taken thus far to provide Estonian language courses to non-Estonian speakers. It also recommends that steps be taken to provide more good quality and free language courses at all levels and in all the regions where they are necessary. ECRI encourages the Estonian authorities to implement the goal

⁸ Motivation to Learn the Estonian Language and Pass the Proficiency Examination, Commissioned by the Ministry of Education and Research and Office of the Minister of Population, Laura Kirss, MA and Mare Karu, MA, Tartu 2008, pp 8-9.

⁹ Ibid, p. 8.

¹⁰ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikumister.ee/index.php?id=11386>, p. 6.

¹¹ Ibid.

established in the Estonian Integration Strategy 2008-2013 as concerns language improvement for non-Estonian speakers and recommends that they do so in consultation with members of this group, among others, to assess needs and results.

Legislation on the rights of national minorities

- *Law on Cultural Autonomy for National Minorities*
28. In its third report, ECRI recommended that the Estonian authorities amend the Law on Cultural Autonomy for National Minorities in order to enable more minority groups to benefit from the rights contained therein. It recommended in this regard that the Estonian authorities enter into a dialogue with members of minority groups on this subject and take their suggestions and comments into consideration.
29. The Law on Cultural Autonomy for National Minorities has not been amended. In 2007, the cultural self-government of the Swedish minority was established under this law. However, as it currently stands, the Law on Cultural Autonomy for National Minorities still has shortcomings, including the fact that only citizens may benefit from it although many non-Estonians are stateless; this impedes many members of minority groups from benefiting from this law. The authorities have themselves acknowledged that the law does not function well as it currently stands and that they are therefore trying to amend it; a text has been drafted to that end. The authorities have informed ECRI that most members of minority groups are able to by-pass the Law on Cultural Autonomy for National Minorities by organising their own cultural activities. Minority representatives have expressed their wish to ECRI to have the law amended, because of its lacunae.
30. ECRI recommends that the Estonian authorities amend the Law on Cultural Autonomy for National Minorities as soon as possible and that representatives of minorities be involved and consulted in this process.
- *Law on the rights of national minorities*
31. In its third report, ECRI strongly encouraged the Estonian authorities to adopt a law which would clearly set out the rights and status of national minorities in Estonia in order to improve their integration into Estonian society.
32. There is currently no law on the rights of national minorities in Estonia and the authorities have informed ECRI that they do not deem it necessary as they have adopted the Equal Treatment Act.¹² However, minority representatives have expressed their wish to ECRI for such a law as they consider that it would provide them with a stronger basis for protecting their rights. While commending the Estonian authorities for the adoption of the Equal Treatment Act ECRI notes that this piece of legislation does not address issues such as minorities' right to develop their culture, language, religion, traditions and customs. These issues should be addressed, especially as Estonia is a party to the Framework Convention for the Protection of National Minorities.¹³
33. ECRI recommends that the Estonian authorities adopt a law on the rights of national minorities, in consultation with representatives of minority groups.

¹² For more information on this piece of legislation, see "Equal Treatment Act" below.

¹³ ECRI further wishes to bring to the Estonian authorities' attention the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by United Nations General Assembly Resolution 47/135 of 18 December 1992, which provides that: "States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs [...]."

Criminal law provisions against racism

34. In its third report, ECRI strongly recommended that the Estonian Government prosecute hate crimes more actively and ensure that people convicted of such crimes were punished in accordance with the severity of their crime. It further recommended that the authorities carry out awareness-raising campaigns throughout the country in order to ensure that law enforcement officials as well as victims of racist crimes were aware of the existence of Articles 151 and 152 of the Criminal Code.
35. ECRI notes with concern that hate speech is currently only punishable where substantial damage has been caused to the victim's rights, as Article 151 1) of the Criminal Code provides that activities which publicly incite hatred, violence or discrimination on the basis of, among others, nationality, race, colour, language, origin or religion, if they result in danger to the life, health or property of a person, are punishable by a fine of up to 300 fine units (approximately 1,150 EUR) or by detention.¹⁴ Article 151 2) of the Criminal Code further provides for pecuniary punishment or up to 3 years' imprisonment if the act causes the death of a person or results in damage to their health or other serious consequences, or it is committed by a person who has previously been punished for such an act. The authorities have informed ECRI that since its third report, no one has been arrested or brought to court for a violation of Article 151 of the Criminal Code. ECRI considers that the Criminal Code does not, in fact, punish hate speech independently of specific consequences as recommended in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.
36. ECRI has no information on any specific awareness-raising measures taken concerning Articles 151 and 152 (which prohibits racial discrimination) of the Criminal Code targeting law enforcement officials and victims. Reports indicate that police participated in various courses on racist crimes and intolerance organised by non-state bodies and that it collects data on crimes motivated by hatred. However, this type of data is only collected when an investigation has been carried out. Due to the lack of statistical information, it is thus difficult to assess to what extent violations of Articles 151 and 152 occur.¹⁵
37. In its third report, ECRI recommended that the Estonian authorities ensure, in accordance with its General Policy Recommendation No. 7, that the racist motivation of a crime be considered an aggravating circumstance at the sentencing stage of a criminal trial and that the Estonian authorities include in the Criminal Code a provision which defines ordinary crimes with a racist motivation as racist crimes.
38. The Estonian authorities have informed ECRI that as of 2009, it is possible to treat differently cases where there is a racist motive to an ordinary crime. However, no statistics appear to be gathered in cases where an ordinary crime may have a racist motive. The authorities have also informed ECRI that the "base motive" included in Article 58 1) of the Criminal Code as an aggravating circumstance continues to include the racist motivation of a crime. However, according to information available to ECRI, no cases have been brought to court for racist crimes since its third report, so it is difficult to assess the implementation of this article by the courts, in particular as judges may not be sufficiently trained to be aware of the racist motivation of an ordinary crime in cases put before them.

¹⁴ Article 48 of the Criminal Code provides that for a misdemeanour, a court may impose detention for a term of up to thirty days.

¹⁵ For more information on racist crimes, see "Racist Violence" below.

39. In its third report, ECRI urged the Estonian authorities to prohibit racist organisations.
40. Article 151 (3) of the Criminal Code provides that activities which publicly incite hatred, violence or discrimination on the basis of, among others, race, colour, language, origin or religion, if they result in danger to life, health or property, are punishable by “pecuniary punishment or up to 3 years’ imprisonment” if committed by a criminal organisation. It may be construed from this provision that racist organisations are considered to be criminal organisations. However, the Criminal Code does not specifically forbid racist organisations as recommended by ECRI in its General Policy Recommendation No. 7, which states that the law should prohibit the creation or leadership of a group which promotes racism; support for such a group; and participation in its activities with the intention of contributing to the racist crimes.¹⁶
41. ECRI urges the Estonian authorities to amend the Criminal Code in order to clearly punish all racist crimes. It draws their attention to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination in which it recommends, in paragraph 18, that criminal law should penalise the public incitement to violence, hatred or discrimination, public insults or defamation or threats against a person or a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin.
42. ECRI recommends that awareness-raising measures be taken for the public in general and minority groups in particular as well as law enforcement officials, judges and prosecutors on the current legislation against racism.
43. ECRI recommends that measures be taken to provide training to all relevant actors in the criminal law system (judges, prosecutors, the police) to enable them to recognise the racist motivation of an ordinary crime. ECRI further recommends that judges ensure that the racist motivation of a crime is taken into consideration under Article 58 1) of the Criminal Code.
44. ECRI recommends that the Estonian authorities include in the Criminal Code a provision specifically prohibiting racist organisations as recommended in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

Anti-discrimination legislation

- Equal Treatment Act

45. In its third report, ECRI strongly recommended that the Estonian authorities reconsider adopting the Draft Law on Equality and Equal Treatment, in conformity with ECRI’s General Policy Recommendation No. 7.
46. ECRI is pleased to note that the Equal Treatment Act, which is broadly in keeping with its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, entered into force on 1 January 2009. The Equal Treatment Act protects against discrimination based on, among others, nationality (ethnic origin), race, colour and religion or other beliefs. It provides that discrimination based on nationality (ethnic origin), race or colour is prohibited as concerns the conditions for access to employment, entry into employment contracts, access to vocational training, membership or involvement in employers’ or employees’ organisations, social protection, including social security and healthcare and social advantages, education, as well as access to

¹⁶ See, paragraph 18 g) of General Policy Recommendation No.7.

and supply of goods and services available to the public including housing.¹⁷ However, protection against discrimination on the grounds of, inter alia, religion or other beliefs, does not extend to social protection, education or to access to and supply of public goods and services.¹⁸

47. The Equal Treatment Act prohibits direct and indirect discrimination, harassment and instruction to discriminate.¹⁹ It further provides that discrimination shall be taken to occur where one person is treated less favourably than others or negative consequences follow because he or she has submitted a complaint for discrimination or has supported a person who has submitted such a complaint.²⁰ The Act provides for positive action²¹ and for a shared burden of proof in discrimination cases before the courts or a labour dispute committee.²² The Act also creates the following obligations for employers, education and research institutions and ministries: 1) employers shall protect employees against discrimination and inform them of their rights and duties under the Act; 2) education and research institutions shall promote equality when determining the content of training courses and organising education; and 3) each ministry shall respect equality within its area of competence and cooperate with other institutions and persons to promote it.²³
48. The Equal Treatment Act provides for pecuniary and non-pecuniary damages in cases of discrimination.²⁴ The Gender Equality and Equal Treatment Commissioner²⁵ is entrusted with, inter alia, monitoring compliance with the Act while the Legal Chancellor²⁶ is empowered, under this Act, to resolve discrimination disputes through conciliation proceedings.²⁷
49. The Equal Treatment Act contains some lacunae, which if filled would strengthen the protection against racial discrimination provided therein. The Act does not prohibit discrimination based on citizenship or language as recommended in ECRI's General Policy Recommendation No. 7²⁸ and its provision for compensation provides that a victim shall receive "a reasonable amount of money" for non-pecuniary damages, which may be construed as vague and subjective. ECRI wishes in this regard to draw the Estonian authorities' attention to its General Policy Recommendation No.7, which states, in Chapter II (12), that the law should provide for effective, proportionate and dissuasive sanctions.
50. The Estonian authorities have informed ECRI that the Ministry of Social Affairs is in charge of coordinating ministries in the implementation of the Equal Treatment Act. They have also stated that they have budgeted amounts for training on this Act and work in close cooperation with the Human Rights Centre to train NGOs and inform the public about this Act. They have also stated that they work with the media to provide information to the public and NGOs about this Act. However, the authorities have also stated that no awareness-campaigns on this

¹⁷ Article 2 -1 (1)-(7)

¹⁸ Article 2-2.

¹⁹ Articles 3 -2, 3-4 and 3-3 respectively.

²⁰ Article 3-6.

²¹ Article 6

²² Article 8.

²³ Articles 12 and 14 respectively.

²⁴ Article 24.

²⁵ Articles 15-20.

²⁶ For more information on this body and the Gender Equality and Equal Treatment Commissioner, see "Anti-discrimination bodies and other institutions" below.

²⁷ Article 23.

²⁸ See, Chapter I of this General Policy Recommendation.

Act have been carried out, as there are not many funds available. As at the time of writing, the Act was relatively new, so it is understandable that no cases had been brought to court invoking it. ECRI is not aware of any measures taken by the authorities to train judges and prosecutors on this piece of legislation, but it hopes that such training will be provided to prepare them for when victims begin filing complaints under this Act.

51. ECRI strongly recommends that the Estonian authorities further strengthen the Equal Treatment Act by, inter alia, prohibiting discrimination based on language and citizenship. It recommends that they draw guidance from its General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination to that end.
52. ECRI recommends that the protection against discrimination based on religion or other beliefs extend to social protection, education and access to and supply of public goods and services.
53. ECRI recommends that the Estonian authorities take further steps to raise public awareness of the Equal Treatment Act and that measures aimed specifically at raising awareness of members of minority groups be taken.
54. ECRI recommends that the Estonian authorities take measures to provide judges and prosecutors with initial and on-going training on the Equal Treatment Act and that the same type of training be offered to lawyers.²⁹

- *Law on Employment Contracts*

55. In its third report, ECRI recommended that the Estonian authorities ensure that the new anti-discrimination Articles in the Law on Employment Contracts were fully applied and that the authorities carry out awareness-raising campaigns and training sessions for employers, judges and prosecutors, throughout the country, regarding this law.
56. ECRI notes with interest that the new Law on Employment Contracts entered into force on 1 July 2009. Its Article 3 enjoins employers to respect and promote the principle of equal treatment and protect employees against discrimination. The Ministry of Social Affairs has issued a handbook explaining the new law and training has been organised for employers and employees.
57. ECRI recommends that the Estonian authorities raise members of minority groups' and employers' awareness of the new Law on Employment Contract. ECRI recommends providing initial and on-going training to judges and prosecutors on it. It also recommends that the same type of training be offered to lawyers.

Anti-discrimination bodies and other institutions

58. The two institutions below are empowered to deal with issues of racial discrimination and racism in Estonia.

- *Office of the Legal Chancellor*

59. In its third report, ECRI recommended that the authorities carry out awareness-raising campaigns, throughout the country, on the Office of the Legal Chancellor's powers in general and on his new mandate for fighting discrimination in particular and that the authorities provide the Office of the Legal

²⁹ See paragraph 98 below.

Chancellor with sufficient funds for helping people at the local level and especially in the Ida-Virumaa County.

60. As indicated above³⁰, the Legal Chancellor resolves, through conciliation proceedings, discrimination disputes brought to his/her attention by a petition lodged by the victim. The Legal Chancellor explained to ECRI that conciliation proceedings between private individuals are purely voluntary; since 2005, he has received four petitions concerning alleged discrimination by private individuals. However, no conciliation proceedings were instituted in the absence of agreement between the parties. The Legal Chancellor has also stated that he has received complaints against public bodies, which have a discriminatory aspect and that he has visited detention centres for foreigners.³¹ The Legal Chancellor has informed ECRI that his office consists of 38 persons and that no branches have been opened outside Tallinn, but that visits are carried out outside the capital. He has further indicated that reception hours and days are established in major areas in Estonia.
61. The reasons why so few complaints for racial discrimination have been filed before the Legal Chancellor do not appear to have been investigated, but it appears that awareness-raising measures are still necessary to inform the public in general and minority groups in particular of his role as an anti-discrimination body. Moreover, a permanent presence outside Tallinn, including in the Ida-Virumaa County where a large number of Russian-speakers live, might contribute to raising this awareness. ECRI wishes in this regard to draw the Estonian authorities' attention to its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, in which it recommends that specialised bodies should be easily accessible to those whose rights they are intended to protect and that they should consider, where appropriate, setting up local offices in order to increase their accessibility.³²

- *Gender Equality and Equal Treatment Commissioner*

62. As indicated above,³³ the Gender Equality and Equal Treatment Commissioner is empowered to monitor compliance with the Equal Treatment Act³⁴. The Commissioner is appointed by the Minister for Social Affairs for a 5-year term and his/her activities are financed from the state budget. Article 16 of the Equal Treatment Act provides that the Commissioner shall: 1) monitor compliance with the Equal Treatment Act and Gender Equality Act; 2) advise and assist persons upon submission of complaints regarding discrimination; 3) provide opinions concerning possible cases of discrimination on the basis of applications submitted by persons or on his/her own initiative on the basis of obtained information; 4) analyse the effects of, inter alia, the Equal Treatment Act on persons divided on the basis of, inter alia, their nationality (ethnic origin), race, colour and religion or other beliefs; 5) make proposals to government agencies, local governments and their agencies for amendments to legislation; 6) advise and inform these bodies on issues relating to the implementation of, inter alia, the Equal Treatment Act; 7) publish reports on the implementation of the principle of equal treatment; 8) cooperate with other persons and agencies to promote equal treatment, and 9) take measures to promote equal treatment. ECRI is thus pleased to note that the Gender Equality and Equal Treatment Commissioner, has a broad mandate which globally complies with the principles set out in its

³⁰ See, "Anti-discrimination legislation".

³¹ For more information on the situation on foreigners, see "Vulnerable/Target Groups" below.

³² See Principle 6.

³³ See, "Anti-discrimination legislation".

³⁴ Ibid., Article 15 of the Equal Treatment Act

General Policy Recommendation No. 2. ECRI, moreover, considers that the Commissioner's independence should be enhanced through additional resources and staff. Finally, although the Gender Equality and Equal Treatment Commissioner is, as indicated above, empowered to advise and assist persons upon the submission of a complaint for discrimination, ECRI wishes to bring to the authorities' attention its General Policy Recommendation No. 2, which states that such bodies should be empowered to provide aid and assistance to victims, including legal aid, in order to secure their rights before institutions and the courts.

63. The Equal Treatment Act and the Gender Equality and Equal Treatment Commissioner³⁵ are relatively new as the Act entered into force in January 2009 and ECRI thus understands that, at the time of writing, the authorities may still have been in the process of establishing the work of the Commissioner and raising awareness of this body's powers. ECRI hopes that wide-ranging measures will be taken to inform the public in general and minority groups in particular of the Commissioner's role under the Equal Treatment Act as concerns combating racial discrimination on the grounds of nationality (ethnic origin), race, colour and religion or other beliefs. ECRI is not aware of the human and financial resources allocated to the Commissioner, but it wishes, on this point, to recall Principle 5 1) of its General Policy Recommendation No. 2 which recommends that these types of bodies be provided with sufficient funds to carry out their functions and responsibilities effectively.

64. ECRI recommends that the Estonian authorities take measures to raise awareness, among the public in general and members of minority groups in particular, of the role of the Legal Chancellor and the Gender Equality and Equal Treatment Commissioner as anti-discrimination institutions under the Equal Treatment Act.

65. ECRI strongly recommends that the Estonian authorities ensure that the Legal Chancellor is provided with the requisite human and financial resources to carry out his functions, including in combating racial discrimination. ECRI recommends that steps be taken to assist the Legal Chancellor in opening offices outside Tallinn, including in the Ida-Virumaa County, by providing him with the necessary human and financial resources to that end.

66. ECRI recommends that the Estonian authorities enhance the independence of the Gender Equality and Equal Treatment Commissioner through additional resources and staff.

67. ECRI recommends that the Estonian authorities ensure that the powers of the Gender Equality and Equal Treatment Commissioner include providing legal aid and assistance to victims as laid out in its General Policy Recommendation No.2.

- *Presidential Roundtable on National Minorities*

68. In its third report, ECRI recommended that the Presidential Roundtable for National Minorities be strengthened in order to improve its effectiveness and strongly encouraged the Estonian authorities to create an independent specialised body for fighting discrimination.

69. ECRI has been informed that the Presidential Roundtable on National Minorities has ceased to function. Minority representatives have expressed their regret to ECRI that this body no longer exists. A consultative body within the Ministry of Culture is, however, considered by some representatives of minority groups to be

³⁵ The Equal Treatment Act extended the powers of the Gender Equality Commissioner, who had been established in 2005.

a very useful tool of information for them, although, unfortunately, this body does not enjoy the same consultative role as the Presidential Roundtable on Minorities had. As concerns the above recommendation that the Estonian authorities create an independent body for fighting discrimination, as indicated above, the Legal Chancellor and the Commissioner for Gender Equality and Treatment are the bodies established to that end.

70. ECRI strongly recommends that the Estonian authorities engage in a dialogue with minority representatives as concerns the possibility of creating a consultative body for all of the country's minority groups. ECRI also recommends that the authorities carry out an assessment of the reasons why the Presidential Roundtable on Minorities ceased to function and build on previous experience for the benefit of this new body.

II. Discrimination in Various Fields

Education

71. In its third report, ECRI recommended that the Estonian authorities ensure that school manuals include information on the history and culture of minority groups in Estonia as well as their contribution to Estonian society. ECRI also recommended that the authorities include, as part of the school programme, teaching on the benefits of diversity and living in a multicultural society. ECRI further recommended that the authorities do their utmost to reduce the gap between Estonian-speaking and Russian-speaking children and encouraged them in this regard to organize forums where such children could meet and learn about each other's culture, through exchanges between schools or extra-curricular activities.
72. The Estonian authorities have informed ECRI that a department on ethnic minorities has been created within the Ministry of Education and that its tasks include safeguarding the language and culture of minority groups. The authorities have further indicated that history is taught in school manuals in a manner which examines the role and contribution of minority groups in Estonia. They have further stated that history books are prepared both in Estonian and Russian and that in 9th grade, pupils are provided courses on living in a multicultural society and on human rights. The Integration Foundation has further prepared films and interviews on the culture of minority groups. ECRI thus notes that some measures have been taken to implement the above recommendation. On this question, ECRI wishes to bring to the Estonian authorities' attention its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through education, which was adopted after the third report, as it contains useful guidelines, which could help strengthen these measures. In this General Policy Recommendation, Member States are advised to revise school textbooks to ensure that they reflect more adequately society's diversity and plurality, and include, to that end, minority groups' contribution to society.³⁶
73. The previously mentioned Estonian Integration Strategy 2008-2013³⁷ states that facilitating and diversifying contacts and joint activities between schools with Estonian and Russian languages of instruction which were started within the framework of the previous integration programme will continue, including by supporting the development of youth work agencies through providing training for

³⁶ See Chapter II, 2 f).

³⁷ See "Language Law" above.

persons involved in youth work.³⁸ According to the authorities, it is estimated that 3,000 persons will participate in integration activities in 2009.

74. ECRI encourages the Estonian authorities to continue and strengthen measures taken thus far to teach minority culture groups' and history as well as multiculturalism and recommends that they draw guidance from its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through education to that end.
75. ECRI encourages the Estonian authorities to implement the goal established in its Estonian Integration Strategy 2008-2013 to increase contacts and joint activities among, inter alia, Estonian and Russian-speaking youth and recommends the involvement and consultation of representatives of Russian-speaking minorities in this process.
76. In its third report, ECRI strongly recommended that the Estonian authorities continue training Estonian language teachers in view of the teaching reforms set out in the Basic Schools and Upper Secondary Schools Act whereby 60% of subjects taught in Russian-language schools should be taught in Estonian. It further recommended that the authorities provide native Estonian language teachers with incentives to relocate to the Ida-Virumaa County. ECRI also recommended that the authorities strive to alleviate the fears of Russian-language teachers about the school reform by, for example, providing them with ongoing on-the-job training in teaching in Estonian.
77. According to information provided by the authorities, there are currently 63 upper secondary schools and 37 basic schools where Russian is the language of instruction and approximately 20% of all pupils in Estonia attend such schools. A few years ago, the Estonian authorities decided to reform the school system and in 1997, the Basic Schools and Upper Secondary Schools Act established the 1st of September 2007 as the deadline for beginning the partial transition to teaching some subjects in Estonian in all upper secondary schools (starting from 10th grade), including schools where the language of instruction is Russian. The goal is to have 60% of the national curriculum taught in Estonian by 2011. According to government information, in autumn 2006, 94% of school principals considered the transition necessary and 92 % of school teaching was already partially provided in Estonian. In the 2007-2008 school year, at least one subject was taught in Estonian in all upper secondary schools where the 10th grade was opened, and in total, 23 subjects were taught in Estonian, including Estonian literature, citizenship studies, music and Estonian history and geography as well as other subjects selected by the schools in question.³⁹
78. The Estonian authorities have indicated to ECRI that they have prepared programmes and additional teaching materials for Russian schoolteachers. They have organised two-year re-training courses for them and those who are already qualified can be re-trained to teach other subjects in Estonian. Furthermore, multilingual teaching has been integrated as part of the training received in pedagogical institutions. The authorities have explained that, for two years, cooperation was established between Tartu and Tallinn Universities for teachers' secondment and scholarships to Russian-language schools. According to the authorities, approximately 40% of Russian-language schools are located in the Ida-Virumaa County (as previously indicated, this region has the largest concentration of Russian-speakers in the country) and approximately 40 % are

³⁸ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikuminister.ee/index.php?id=11386>, p. 23.

³⁹ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikuminister.ee/index.php?id=11386>, p. 8.

located in Tallinn, the rest being in other parts of the country. Research was carried out on the Ida-Virumaa school network in order to establish needs and as a result re-training and further training was provided. The authorities have indicated that four regional advisory centres, including in Narva (the capital of the Ida-Virumaa County), where teachers receive support, have been established. The authorities do, however, recognize that there is a need for flexibility as concerns the reform set out in the Basic Schools and Upper Secondary Schools Act. They also acknowledge that regional needs should be observed and better financing provided.

79. In a report assessing the implementation of the Integration in Estonian Society Strategy 2000-2007, the training of appropriately qualified Estonian language teachers was noted as a remaining necessity.⁴⁰ The Estonian Integration Strategy 2008-2013 states that one of the most important factors in advancing knowledge of Estonian language is the availability of appropriately trained teachers as well as up-to-date Estonian language teaching materials.⁴¹ The goal is all the more welcome as some civil society actors have informed ECRI that there is still an insufficient number of teachers who are ready for the above-mentioned school reform and that they fear that this might result in Russian teachers with insufficient knowledge of Estonian teaching subjects in Estonian. They have indicated that the standard of Russian-speaking children's education might be lowered as a result. Other civil society actors have suggested that there is no lack of persons trained to teach the Estonian language, but that they prefer to work in the private sector due to better salaries. ECRI recognizes that the situation is complex, but it wishes to stress the importance of ensuring that all children receive quality education and that the above reforms not result in lowering the standard of education received by Russian-speaking pupils.
80. ECRI recommends that the Estonian authorities take all possible measures to ensure the quality of education while strengthening Estonian language instruction to Russian-speaking children and respecting their identity. This should include monitoring the achievement levels of children and strengthening the training of Russian-language school teachers to teach in Estonian in accordance with the reforms set out in the Basic Schools and Upper Secondary Schools Act, by inter alia, investing the necessary human and financial resources to that end.
81. ECRI strongly recommends that all relevant actors, including teachers in Russian-language schools and Russian-speakers' parents' associations be continuously consulted and involved in measures taken to prepare teachers in Russian-language schools to teach in Estonian in accordance with the reforms set out in the Basic Schools and Upper Secondary Schools Act; consultation should also be carried out as concerns measures set out in the Estonian Integration Strategy 2008-2013.
82. In its third report, ECRI recommended that the Estonian authorities ensure that schools were aware of the possibility of applying for an exemption from the 2007/2008 deadline for school reform in order to give them more time to prepare.
83. The Estonian authorities have indicated that approximately 20% of pupils study in Russian-language schools and that a number of mandatory subjects are taught in Estonian in these schools. The Estonian authorities have informed ECRI that 6000 pupils whose mother tongue is not Estonian attend Estonian-language schools (out of the 6000, 5800 have Russian as a their mother tongue and 200

⁴⁰ State Integration Programme "Integration in Estonian Society 2000-2007" Mid-Term Appraisal Report, Toetab, Euroopa Liit, p. 25.

⁴¹ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikuminiister.ee/index.php?id=11386>, p. 8.

have another mother tongue). They have also indicated that there are language-immersion schools where 60% of the subjects are taught in Estonian and that there is an increasing trend of Russian-speaking children attending schools where the language of instruction is Estonian. As indicated above, some representatives of minority groups have expressed to ECRI their fear that the reform may lead to a lowering of their children's standard of education and according to a survey, in 2007, only 31% of the Russian minority supported the reform while 62% were against it.⁴² The majority of respondents (73%) stated that the main threat perceived as concerns the reform was that the level of knowledge received by the pupils after the reform would become rather low. The majority of respondents (62%) also felt that it would indeed improve pupils' proficiency in Estonian, while 60% felt that the latter's mother tongue proficiency would decrease. However, 94% of Estonian respondents felt positively towards the reform.⁴³ According to a survey conducted by the Ministry of Education and Research, 60% of the respondents were of the opinion that the reform is necessary for Estonia and for the Russian minority. ECRI is not aware of any measures taken to outline the aims and advantages of the reforms to the target groups, but it appears that steps are necessary to allay Russian-speaking minorities' concerns about them, including by reinforcing mother tongue teaching. Concerning mother tongue education, one of the goals set out in the Estonian Integration Strategy 2008-2013 is: 1) to create opportunities for members of minority groups to learn their mother tongue including by supporting their schools and Sunday schools⁴⁴, and 2) to develop study and informational materials.⁴⁵ ECRI thus hopes that the implementation of this strategy will go some way in addressing the concerns of Russian-speaking minorities on this question. ECRI is not aware of any specific measures taken to provide those Russian schools which have requested it, with more time to prepare for the reforms, but such a step may also address Russian-speaking parents' and teachers concerns.

84. ECRI recommends that the implementation of the school reforms set forth in the Basic Schools and Upper Secondary Schools Act be accompanied by greater involvement and consultation with the target groups in order to address their concerns regarding the reform. ECRI encourages in particular the strengthening of mother tongue teaching as planned in the Estonian Integration Strategy 2008-2013 and it strongly recommends the full participation of minority representatives in this process. It also recommends providing more time to Russian-speaking schools which request an extension of the deadline established in the Basic Schools and Upper Secondary Schools for providing instruction in Estonian.

85. In its third report, ECRI reiterated its recommendation that the Estonian authorities establish a policy for teaching Estonian to non-Estonian children in kindergarten and that the Government develop a policy of training teachers to teach Estonian and in Estonian at that level.

86. The Estonian Integration Strategy 2008-2013 states that activities throughout education levels beginning from pre-school/childcare institutions are directed at expanding teaching in Estonian.⁴⁶ According to the authorities, as at 2007, 75% of children whose mother tongue is other than Estonian had an opportunity to study Estonian in kindergartens, pre-school or other childcare institutions. They

⁴² ENAR Shadow Report 2007, Racism in Estonia, Julia Kovalenko, Legal Information Centre for Human Rights, ENAR-Estonia, p. 18.

⁴³ Ibid.

⁴⁴ Sunday Schools mainly teach minority children their culture and language.

⁴⁵ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikumister.ee/index.php?id=11386>, p. 22.

⁴⁶ Ibid., p. 20.

have indicated that the target level in 2013 will be that 90% of these children have this opportunity. In order to achieve this goal, the authorities plan to support teachers' professional development, to compile teaching materials and develop activities related to language learning programmes. According to the authorities, more attention will also be paid to expanding programmes on the pre-school education level than was previously done and to providing information and counselling to ensure that all parties concerned (including local governments and parents) are well informed and their interests respected.⁴⁷ ECRI welcomes these measures and hopes that they will be fully implemented.

87. In its third report, ECRI recommended that the Estonian authorities provide training to teachers of and in minority languages in order to allow minority groups to benefit from the law which provides for teaching in their mother tongue.
88. The Estonian authorities have informed ECRI that in accordance with the law which provides for mother tongue teaching at the request of the parents of at least 10 children, two schools (1 for Ukrainian and 1 for Italian children) are operating with government funding. There are also several Sunday schools, including for the Lithuanian minority, where mother tongue education is provided, although ECRI has been informed that it is funded by the Lithuanian Embassy in Tallinn. ECRI is not aware of any specific measures taken to train teachers to teach minority pupils in their mother tongue since its third report.
89. ECRI recommends that the Estonian authorities implement in full the goal of providing Estonian language lessons to non-Estonian speaking children at kindergarten and pre-school levels, established in the Estonian Integration Strategy 2008-2013 and it recommends consulting all relevant actors such as parents' associations and teachers.
90. ECRI recommends that the Estonian authorities strengthen efforts made to provide mother tongue education to children from minority groups and reiterates the need for further teacher training to that end.

Employment

91. In its third report, ECRI strongly recommended that the Estonian authorities develop policies to reduce unemployment in the Russian community and encouraged the setting up of programmes for the most vulnerable members of this community such as women and young people. ECRI further recommended that the Estonian authorities ensure that the Integration Foundation also focuses on reducing unemployment within the Russian community.
92. The Estonian authorities have informed ECRI that the Integration Foundation provides separate Estonian language lessons for unemployed ethnic Russians. According to figures provided by the Estonian authorities in 2007 for the period before the economic crisis, the unemployment level among Estonians was 3.6% while among other ethnic groups it was 6.9%.⁴⁸ Furthermore, compared to Estonians, Russian-speakers "feel the indirect unequal treatment on the labour market and in the distribution of wealth more often".⁴⁹ Reports indicate that with similar education levels and other equivalent preconditions, Russian-speakers lag behind Estonians in labour market competition and that the risk of unemployment for non-Estonians has consistently been greater than for Estonians.⁵⁰ They also

⁴⁷ Ibid.

⁴⁸ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikumister.ee/index.php?id=11386>, p. 18.

⁴⁹ Ibid., p. 9

⁵⁰ Estonian Human Development Report 2008, p. 101.

indicate that there is a noticeable lag in non-Estonians achieving employment in top-level positions in the employment market.⁵¹ In the light of this, ECRI welcomes the inclusion, in the goals of the Estonian Integration Strategy 2008-2013, of measures aimed at reducing differences between employees of different ethnic backgrounds. As indicated above, the Equal Treatment Act⁵² also prohibits racial discrimination in the employment sector. As this Act entered into force in January 2009, it is as yet too early to assess its implementation and its impact on combating racial discrimination in employment, but this piece of legislation should enable victims of racial discrimination in employment to bring their cases to court.

93. In 2006, a Labour Act came into force, which lists various vulnerable groups in the labour market, including non-Estonian speakers. The authorities have informed ECRI that free-of-charge re-training is provided, including in the Ida-Virumaa County (inhabited primarily by Russian-speakers) which is most affected by unemployment⁵³. They have also indicated that they plan on providing free-of-charge Estonian language lessons to non-Estonian speakers to assist their integration in the labour market. The authorities have further stated that awareness-raising measures have been started among NGOs and employment services personnel and that they have published thematic information sheets. The authorities have also pointed out that non-Estonian speakers are among the risk groups in respect of whom the Labour Market Services and Benefits Act of 2006 provides for case management, individual counselling, free vocational and language courses and traineeships. Moreover, the spring 2009 campaign on “helping jobseekers”, which sought to enhance the latter’s awareness of legal issues and employment services and benefits, was conducted in both Estonian and Russian. ECRI notes these measures, but considers that more needs to be done, including to raise employers’ awareness of their obligations under the Equal Treatment Act. ECRI hopes that the discriminatory aspect of the gap between Estonians and non-Estonians in the labour market will also be taken into consideration when the goal of reducing these differences is implemented in the Estonian Integration Strategy 2008-2013.

94. ECRI recommends that the Estonian authorities implement the goals set out in the Estonian Integration Strategy 2008-2013 as concerns reducing the employment gap between Estonians and members of minority groups at all levels and strongly recommends that necessary human and financial resources be provided to that end.

95. ECRI recommends that measures be taken to raise awareness of the Equal Treatment Act’s provisions prohibiting racial discrimination in the employment sector among all relevant actors including minority groups, public officials, employers and employment agencies.

Administration of justice

96. In its third report, ECRI recommended that the Estonian authorities continue to provide compulsory courses on issues pertaining to discrimination to judges, prosecutors and lawyers. It further recommended that they be specifically trained on the implementation of Articles 151 and 152 of the Criminal Code.

97. As indicated in other parts of the report⁵⁴, Articles 151 and 152 of the Criminal Code, which deal with racism, continue to be very rarely implemented. It is, thus,

⁵¹ Ibid.

⁵² See, “Anti-discrimination legislation” above.

⁵³ According to the authorities, this county has had extensive recourse to the European Social Fund to improve its labour-market situation.

⁵⁴ See, “Criminal law provisions against racism” above.

difficult to assess judges' and prosecutors' implementation and understanding of these provisions. The Estonian Law Centre, a non-profit organisation, appears to continue to be in charge of providing legal training seminars to the Estonian legal community. ECRI is, however, not aware of any specific or reinforced measures taken by the authorities in this context or any other to provide training to the legal community on the legislation prohibiting racism and racial discrimination, including the Equal Treatment Act.

98. ECRI strongly recommends that the Estonian authorities ensure that judges and prosecutors receive initial and on-going training on the current legislation on racism and racial discrimination. It also recommends that the same type of training be offered to lawyers.

III. Racist Violence

99. The Estonian authorities have informed ECRI that few racist crimes are committed in Estonia. Reports indicate that acts of violence and harassment have been perpetrated by neo-Nazis and skinheads, in particular in 2007, against members of minority groups, including Blacks. The extent of the problem is, however, difficult to assess partly because the police⁵⁵ do not record "racist incidents" within the meaning of General Police Recommendation No. 11 on combating racism and racial discrimination in policing. A hate crime would only be recorded if it has been established that its motive was racist. Reports also indicate that police awareness of the problem of racist crimes needs to be increased, as they appear to take little action against the perpetrators of this type of crimes.

100. ECRI recommends that the Estonian authorities take measures to ensure that the police thoroughly investigate racist crimes, including by fully taking the racist motivation of ordinary offences into account as recommended in its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.

101. ECRI strongly recommends that the Estonian authorities establish and operate a system for recording and monitoring racist incidents as recommended in its General Policy Recommendation No. 11. ECRI also recommends that the Estonian authorities take steps to encourage victims and witnesses of racist incidents to report them as recommended in this General Policy Recommendation; ECRI wishes to recall that Chapter III (14) of General Policy Recommendation No. 11 provides that for the purpose of this recommendation, a racist incident is any incident which is perceived to be racist by the victim or any other person.

IV. Racism in Public Discourse

102. In its third report, ECRI urged the Estonian authorities to support the work of the Press Council of Estonia and the Estonian Newspaper Association by providing them with funds for training journalists on issues pertaining to racism and racial discrimination. It further recommended that those who publish discriminatory or incendiary articles be duly prosecuted.

103. The Estonian Press Council (EPC) is a non-profit organisation composed of 9 members, including journalists, a writer and a lawyer, which meets once a month and aims to "examine complaints about mass media from the aspect of good conduct" and to "support journalists' professional skills including perception of ethic and adherence to the good tradition of journalism"⁵⁶. In 2006, the EPC

⁵⁵ For more information on the police, see « Conduct of law enforcement officials » below.

⁵⁶ http://www.asn.org.ee/english/in_general.html

received 19 complaints, in 2007 21 and the same number in 2008. In cases where a complaint is upheld, this body can request that the media in question disseminate the full text of their decision within 7 days, failing which the EPC will make their decision public by “other means of mass communication”.⁵⁷ However, ECRI is not aware of whether any of the complaints received by this body concern racism in the media. The EPC has adopted a Code of Ethics of the Estonian Press, which provides that “it is not recommended to emphasize nationality, race, religious persuasion [...] unless it has news value”. However, ECRI is not aware of any measures taken to train journalists on issues of racism. As indicated in other parts of this report, Roma⁵⁸ continue to point to the media as a vehicle of stereotypes against their community. It does not appear that there have been cases where the media has been prosecuted for incitement to racial hatred. Reports indicate that racism, xenophobia and antisemitism on the Internet are a problem⁵⁹. ECRI has been informed that the law allows for preventing hate speech on the Internet and that steps have been taken in this regard. However, ratification of the Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems as recommended above⁶⁰ would assist the Estonian authorities in combating this problem more effectively.

104. ECRI encourages the Estonian authorities to make the media aware, without encroaching on their editorial independence, of the need to ensure that the information they provide does not help breed a climate of hostility towards members of minority groups. It further recommends that the authorities support any initiatives taken by the media in this field and supply them with the necessary resources to provide initial and on-going training on human rights in general and issues pertaining to racism in particular.

105. ECRI reiterates its recommendation that the Estonian authorities make every effort to prosecute and punish media which incite racial hatred. ECRI further recommends that the Estonian authorities take steps to combat racism on the Internet.

V. Vulnerable/Target Groups

Stateless persons

106. In its third report, ECRI recommended that the Estonian authorities carry out surveys to find out the reasons why stateless parents do not apply for citizenship for their under-15-year-old children and that they organize awareness campaigns throughout the country in order to inform parents about the possibilities of acquiring citizenship for their children. ECRI further recommended that the language requirements for older people be scrapped or eased in order to make it easier for them to acquire Estonian citizenship.

107. As indicated above⁶¹, according to statistics provided by the Estonian authorities, there were 107,670 (approximately 8% of the population) stateless persons in total in Estonia on 1 July 2009. The Estonian authorities have also indicated that on 1 July 2009 there were 2571 children under 15 whose parents were stateless and that one of their most important priorities is reducing this number. The Estonian authorities have informed ECRI that as concerns children under

⁵⁷ http://www.asn.org.ee/english/rules_of_procedure.html

⁵⁸ For more information on Roma, see “Vulnerable/Target Groups” below.

⁵⁹ ENAR Shadow Report 2007, Racism in Estonia, Julia Kovalenko, Legal Information Centre for Human Rights, ENAR-Estonia, p. 26.

⁶⁰ See, “International Legal Instruments” above.

⁶¹ See, “Citizenship legislation” above.

15 years born in Estonia to stateless parents, in order for them to obtain Estonian citizenship, the parents still have to make a request to that end. However, according to the authorities, since February 2008 parents are systematically informed of the possibility of applying for citizenship upon their child's birth; in addition, there is follow-up personal counselling; since October 2008 information sessions are held on this topic in Russian-language schools; moreover, in November 2008 the parents of all children under 15 who were found to be eligible for citizenship received a personal letter from the Minister of the Interior; information on Estonian citizenship and application procedures was also provided as part of the November 2008 "Different People, One Nation" information campaign⁶². Finally, the Estonian Integration Strategy 2008-2013 plans on involving naturalised citizens in raising motivation, knowledge and civil activity of less integrated young people and adults and developing activities for promoting Estonian citizenship.⁶³ ECRI hopes that this will include additional measures to inform and motivate stateless parents to apply for citizenship for their under-15-year-old children born in Estonia. The authorities may also wish to examine the possibility of providing for the acquisition of Estonian citizenship at birth, including for children of stateless persons.

108. Regarding the issue of easing the language requirements which are mandatory for obtaining Estonian citizenship as concerns older Russian-speaking persons, reports indicate that their situation is considered vulnerable by representatives of the Russian-speaking community since the majority of persons in that age group have difficulties in terms of language learning.⁶⁴ Research has shown that the older the candidate for the Estonian language examination, the more often he/she thinks it is too difficult: 69% of people aged 40-49 who failed the examination held that opinion and the percentage rose to 83% for those who were older than 49.⁶⁵ Although the Law on Citizenship was amended in 2006, no amendments concerning facilitating access to citizenship for older generations of non-citizens were included.
109. ECRI recommends that the Estonian authorities take further steps (also within the framework of the Estonian Integration Strategy 2008-2013) to ensure that stateless parents are made aware of the possibility of requesting citizenship for their under-15-year-old children.
110. ECRI reiterates its recommendation that the language requirements for the acquisition of Estonian citizenship be facilitated or scrapped for older generations of non-citizens in order to enable them to acquire Estonian citizenship more easily.
111. In its third report, ECRI recommended that the Estonian authorities ensure that the 2004 Law on Citizenship does not result in members of the same family having citizenship and others remaining stateless.
112. As indicated above, the stateless parents of under 15 year old children born in Estonia can apply for their children to obtain citizenship even if they are not Estonian nationals. Therefore, this leads to persons within the same family being

⁶² Official ceremonies are also organised to award citizenship certificates.

⁶³ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikuminister.ee/index.php?id=11386>, p. 25.

⁶⁴ Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to the implementation of the Durban Declaration and Programme of Action; Report of the Special Rapporteur on contemporary forms of racism, racial discrimination xenophobia and related intolerance, Doudou Diène, Addendum, mission to Estonia, A/HRC/7/19/Add.2, 17 March 2008, para. 59.

⁶⁵ Motivation to Learn the Estonian Language and Pass the Proficiency Examination, Commissioned by the Ministry of Education and Research and Office of the Minister of Population, Laura Kirss, MA and Mare Karu, MA, Tartu 2008, p. 4.

citizens and others not, and a divergence in the type of rights enjoyed by different members of the same family. The Estonian authorities have indicated that most parents have applied for citizenship for their children and many for themselves. Although ECRI has been informed that generally, stateless persons enjoy protection against discrimination, there are some rights that they do not enjoy such as the right to belong to a political party or to present their candidacy for local elections (although they may vote therein). The authorities have informed ECRI of a number of measures taken to reduce statelessness in the country, which will be examined below, and it hopes they will address this problem.

113. In its third report, ECRI recommended that Estonia continue to provide Estonian citizenship to more stateless persons in the light of its accession to the European Union, in order to avoid creating a two-tier society where a sizeable section of the Estonian population do not enjoy the same rights as the rest of society, and that they pursue a more pro-active policy of providing citizenship to stateless people.
114. The Estonian authorities have informed ECRI that they have taken further steps to reduce the number of stateless persons in the country since ECRI's third report. In March 2009 a new project was launched to inform persons in the 15-20 age group of the possibilities for applying for citizenship. In addition, leaflets with sample questions and answers for the citizenship examination are distributed in Tallinn and Ida-Virumaa and the authorities have indicated that discussions are underway on the possibility for school leavers to be exempt from taking this examination. The authorities have also indicated that the Integration Foundation organises training sessions to explain the procedure for applying for citizenship. The language portion of the citizenship examination remains, but has been facilitated and the other portion of this examination comprises 24 multiple choice questions on the Citizenship Act and the Estonian Constitution. The Estonian authorities have indicated that the pass rate for the citizenship examination is very high with 85% of first time applicants passing it.
115. Civil society actors have informed ECRI that the current trend is towards a reduction in the number of persons applying for citizenship and obtaining it and that the reasons for the lower number of citizenship applications is that the need to apply for citizenship and take the citizenship examination is considered discriminatory and humiliating. The authorities have countered that the number of stateless persons has been consistently decreasing, from 136,000 in 2006 to 107,607 on 1 July 2009. They have also stated that according to a study carried out in 2008, people do not apply for citizenship mostly for practical reasons. Current government statistics indicate that over 50% of persons who were previously non-Estonians have acquired citizenship and that the naturalisation rate in the last few years has remained constant at 5000 persons per year. The Estonian Integration Strategy 2008-2013 has established as one of its goals the consistent decrease in the number of stateless persons.⁶⁶

116. ECRI recommends that the Estonian authorities continue measures taken thus far to reduce the number of stateless persons, in full consultation with representatives of the concerned persons.

117. ECRI recommends that specific measures be taken to ensure that members of the same family have Estonian citizenship, in order to avoid a situation where within the same family, some persons are Estonian and others are stateless.

118. ECRI recommends that the Estonian authorities continue to relax the criteria for obtaining citizenship. It also recommends raising awareness of non-citizens of

⁶⁶ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikumister.ee/index.php?id=11386>, p. 25.

the benefits of obtaining citizenship and consulting with representatives of stateless persons for any future amendment to the Citizenship Act to facilitate the acquisition of citizenship.

Russian-speaking minorities and other ethnic minority groups

119. In its third report, ECRI strongly recommended that the Estonian authorities develop and implement a clear policy of integrating Russian-speaking minorities in Estonian society and that minority groups be consulted on this question and that the Integration Foundation's new program, which will start in 2008, focus on all issues relating to minority groups' integration into Estonian society.
120. According to information provided by the authorities, in 2007, the population in Estonia comprised 69% Estonians, 26% Russians, 2% Ukrainians, 1% Byelorussians, 1% Finns and 1% were qualified as "All Others". The latter include Latvians, Lithuanians, Roma, Jews⁶⁷, Tatars and Azerbaijanis. Some of the above-mentioned measures taken by the authorities, including teaching Estonian to non-Estonians speakers, reducing the number of stateless persons, and adopting the Equal Treatment Act address to some extent the issue of the integration of Russian-speaking minorities and other ethnic minority groups in Estonia. As also indicated above, in 2008, the Estonian authorities adopted the Estonian Integration Strategy 2008-2013, which is a follow-up to the Integration in Estonia Strategy 2000-2007. The Estonian authorities have indicated that the Estonian Integration Strategy 2008-2013 is an action plan for governmental and other institutions and that it will be implemented at the following 3 levels: 1) educational and cultural; 2) social and economic, and 3) legal and political. One of the goals established in the Estonian Integration Strategy 2008-2013 is to increase contacts between people of different cultural backgrounds, as it was noted by the authorities that in 2007, 67% of Estonians and 39% of people of other ethnic background had "practically no mutual contacts".⁶⁸ This strategy also aims to decrease differences in the level of participation of Estonian and non-Estonian groups in public life and non-governmental organisations, as it has been noted that in 2007, whereas 12% of Estonians were members of a non-governmental organisation, only 1% of persons belonging to minority groups were.⁶⁹ The authorities also noted, in 2007, that 28% of Estonians and 82% of persons belonging to minority groups thought that greater participation by the latter in the country's economic and political affairs would be beneficial to Estonia.⁷⁰
121. Civil society actors have informed ECRI that the Estonian Integration Strategy 2008-2013 was not very widely publicised, although some information on it was presented to the media. They have indicated that before its adoption, public discussions were held with civil society actors and members of the non-Estonian community. The Estonian authorities have informed ECRI that civil society actors were able to provide their input into this strategy. The strategy provides for annual action plans covering approximately 250 activities and action plans have been set until 2010, at which point a mid-term review will be carried out and a new action plan established. The authorities have also indicated that there is an annual evaluation cycle and that at the time of ECRI's visit in March 2009, the 2008 evaluation cycle was on-going. Resources for implementing this strategy are provided by the Minister for Population and Ethnic Affairs. Some civil society actors have, however, informed ECRI that they are not aware of who is

⁶⁷ For more information on the situation of Jews, see "Antisemitism" below.

⁶⁸ Handout provided by to ECRI by the Minister for Population and Ethnic Affairs, p. 7.

⁶⁹ Ibid.

⁷⁰ Ibid.

responsible for implementing the Estonian Integration Strategy 2008-2013 and how its implementation can be monitored.

122. In its third report, ECRI reiterated its recommendation that the Estonian authorities take into account all the minority groups living in Estonia and that they develop policies which take into account their specific needs.
123. As indicated above, Estonia comprises minority groups other than Russians and representatives of some of these groups have informed ECRI of some of the positive steps taken by the authorities since its third report, including the above-mentioned Sunday Schools.⁷¹ Representatives of the Azerbaijani minority have informed ECRI that the Ministry of Education and the Educational Programme carried out by the Integration Foundation published a booklet on Azerbaijanis, which is freely distributed in schools. Other minority representatives (Ukrainians) have indicated to ECRI that the authorities pay a lot of attention to the preservation of members of minority groups' identity. They have also indicated that the funding of cultural activities is no longer project-based as funding is currently more long-term.
124. A number of concerns to minority groups were also brought to ECRI's attention: some minority representatives would like to see improvements with regard to the financing received from the government for their cultural societies, including as concerns criteria which have to be met in order to obtain this financing. As indicated above⁷², minority representatives have also expressed their wish for a law on national minorities. Representatives of the Azerbaijani community further stated that they are currently encountering problems in obtaining permission to have a mosque built in Tallinn (as that is where the majority of Muslims in Estonia live), despite the fact that they have made a formal request to that end. They have also indicated that they have received complaints from Muslim prisoners who cannot exercise their religious rites and have trouble with their dietary requirements being met. However, a Mufti currently visits Muslim prisoners and carries out religious rites.
125. ECRI encourages the Estonian authorities to continue implementing the Estonian Integration Strategy 2008-2013. It strongly recommends that representatives of minority groups and civil society actors be involved in the process as well as in its evaluations and any adjustments thereto.
126. ECRI recommends that the Estonian authorities open a dialogue with representatives of non-Russian minority groups to discuss issues of concern to them and to find a solution thereto, including as concerns matters relating to state funding for their cultural activities.
127. In April 2007, the relocation from the centre of Tallinn of the Soviet Soldier (Bronze Soldier) statue, which had been erected in memory of Soviet soldiers who died in Estonia during the Second World War, sparked clashes between supporters of the removal (mostly ethnic Estonians) and its opponents (mainly ethnic Russians). The former considered that it was a testimony of the Soviet occupation while the latter felt that the statue was a symbol of the Soviets' liberation of Estonia from the Nazis. In view of the diverging opinions on this important historical past among the two largest components of Estonian society, ECRI notes with interest the establishment, on 1 February 2008 under the leadership of the country's President, of the Memory Institute, an independent academic body, whose goal is to "examine the systematic violations of human rights in Estonia, and in regard to citizens of the Republic of Estonia in 1944-

⁷¹ See, "Education" above.

⁷² See, "Law on national minorities" above.

1991".⁷³ The Estonian President stated that the research of this institute is necessary in order to get over the past without hate and prejudice and to cope with the present.⁷⁴ ECRI therefore hopes that the Memory Institute will enable all Estonians to find a common ground on the country's history in order to build greater social cohesion and look to the future.

128. ECRI recommends that the work of the Memory Institute be carried out with the full participation of members of minority groups and that all the necessary human and financial resources be provided to this body.

Roma

129. In its third report, ECRI recommended that the Estonian authorities establish better policies for integrating the Roma community in society, especially on the job market and that they make full use of the anti-discrimination provisions in the Law on Employment Contracts to tackle the discrimination faced by members of this community in employment. ECRI further emphasized that any policies developed by the authorities to help members of the Roma community should be designed with their full cooperation and participation. ECRI also recommended that the authorities generally take measures to provide a more positive image of the Roma community in order to help reduce the prejudices they face and help raise their self-esteem. It further reiterated that those who incite racial hatred should be prosecuted in accordance with Article 151 of the Criminal Code.
130. In its third report, ECRI recommended that the persecution of the Roma community during the Second World War be included in all school curricula and that information campaigns to raise awareness of the horrors endured by members of this community be carried out throughout the country.
131. As indicated in ECRI's third report, the 2000 census placed the number of Roma in Estonia at 542 persons, although it is difficult to establish their exact numbers as some do not declare themselves as such. The Estonian authorities have informed ECRI that in 2007, a study⁷⁵ was carried out on Roma as it was noted that the authorities had no comprehensive overview of the situation of this community. ECRI notes with concern that this study found that Roma face many stereotypes and that the majority population in Estonia know almost nothing about the culture, history and life of Roma.⁷⁶ The media is also indicated as magnifying these prejudices when reporting on some offenders' ethnic origin. The study concludes that "constant exclusion, opposition and attitudes based on stereotypes have forced the majority of Roma to live in a way where economic survival has become the main focus and their traditions and former values are becoming secondary. Lack of vocational education, low level of education and constant discrimination and disparagement have left Roma with less choice in how to deal with their lives."⁷⁷
132. ECRI is not aware of any measures taken to integrate Roma in the labour market in order to combat any discrimination they face therein. It notes in this regard that the above study recommends that an in-depth study of employment

⁷³ Under the leadership of President Ilves, the Memory Institute was established, 04.02.2008, <http://www.president.ee/print.me.php?gid=107864>.

⁷⁴ Ibid.

⁷⁵ Women in Estonian Roma Communities, Study Report, Estonian Institute of Humanities of Tallinn, University Centre for Civil Society Study and Development, Margaret Tali, Kersti Kollom, Mari-Liis Velberg, Tallinn 2007.

⁷⁶ Ibid., p. 4

⁷⁷ Women in Estonian Roma Communities, Study Report, Estonian Institute of Humanities of Tallinn, University Centre for Civil Society Study and Development, Margaret Tali, Kersti Kollom, Mari-Liis Velberg, Tallinn 2007, p. 5

problems and discrimination of Roma on ethnic grounds consider their experience in the labour market as well as experiences and attitudes of employers to give a better explanation of the many reasons why Roma are economically and socially excluded.⁷⁸

133. Partly due to the above-mentioned lacunae in Article 151 of the Criminal Code⁷⁹, which allows for the punishment of incitement to, inter alia, racial hatred only if it results in danger to the life, health or property of a person, it appears that no media has been prosecuted for incitement to racial hatred against Roma under this code, although as indicated in the above study and confirmed by other reports, they are a vehicle for prejudices against Roma, associating them with various crimes and supporting their exclusion. ECRI is further not aware of any measures taken to inform Estonians of the plight of Roma during the Second World War through awareness-raising campaigns.
134. Roma representatives have expressed a number of issues of concern to them which they would wish the authorities to address: 1) that Roma be granted the status of a national minority; 2) that a person of Roma background be employed either in the Office of the Legal Chancellor⁸⁰ or in the Ministry of Population and Ethnic Affairs to work on Roma issues; 3) that Roma be provided with access to European funds for measures concerning them, and 4) that the authorities devise an action plan for improving the situation of Roma. Roma representatives have further indicated that the proposals they have made to the Estonian authorities to deal with the problems faced by their community have received no response. The authorities have informed ECRI that a Roma cultural association has been registered, which is eligible for Government support.
135. In its third report, ECRI urged the Estonian authorities to investigate the problem of the education of Roma children and to ensure that those of them who are of school age attend school. ECRI further urged the Estonian authorities to ensure that Roma children are not placed in schools for mentally disabled children if they do not suffer any disabilities and that any Roma children in this situation be placed in mainstream schools as soon as possible. ECRI also strongly recommended that the presence, culture and contribution of Roma to Estonian society be included in all school textbooks.
136. The Estonian authorities have indicated that in 2008, the Ministry of Education, the Ministry of Culture and the Ministry of Population and Ethnic Affairs assessed the number of Roma children in schools, but that Roma are reluctant to declare themselves as such⁸¹. The authorities have informed ECRI that there are currently approximately 100 Roma children in school and they have confirmed that the dropout rate and late entry into the education system among these children remain high. In 2009, in cooperation with the Roma community, the Estonian authorities initiated a mapping of areas where Roma children attend school and the challenges Roma parents and the teachers who teach them face. The authorities have informed ECRI that when the information data has been gathered, a round table will be held and the necessary study materials prepared. The Estonian authorities have also indicated that Roma are mentioned in schoolbooks and that a teachers' manual for teaching the Holocaust was introduced in 9th grade. They have stated that Roma are mentioned in school textbooks, but not separately. However, as the above study concluded that

⁷⁸ Ibid., p. 6.

⁷⁹ See, "Criminal law provisions against racism".

⁸⁰ For more information on the Office of the Legal Chancellor, see "Anti-discrimination bodies and other institutions" above.

⁸¹ In 2008-2009 only 5 children were registered as Roma, all in ordinary schools. However, in a 2007 special-school survey, 7 Roma children were found at Valga Jaanikese.

knowledge of Roma culture, history and life of Roma is, largely, lacking among the majority population, more efforts are still necessary in this regard. The study concludes that additional research could identify how Roma customs and traditions could be considered more in schools.⁸² Concerning the school education of Roma children in general, the authorities have acknowledged themselves that the following issues remain: 1) training teachers who teach Roma children; 2) preparing information materials to schools with Roma children, and 3) providing support to Roma parents.

137. Regarding the situation of Roma children in special schools for disabled children, the authorities have indicated that one of the aims of the above-mentioned mapping is to establish the number of Roma children in such schools and the reasons for their placement therein.⁸³ ECRI welcomes the authorities' stated intention to ensure that no children are unduly placed in these schools and hopes that urgent measures will be taken to integrate Roma children who should not be in special schools into mainstream schools. The above-mentioned study also states that ways must be found to stop healthy Roma children being sent to schools for disabled children.⁸⁴

138. ECRI again recommends that Estonian authorities take measures to address the challenges faced by Roma including stereotypes, prejudice and discrimination. It recommends that measures be taken to integrate Roma into the employment sector, including through the enforcement of the Equal Treatment Act.

139. ECRI recommends that the Estonian authorities take measures to combat the high school dropout rate of Roma children and to ensure that they start attending school at the mandatory age. It recommends that the authorities draw inspiration from its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education to address these problems.

140. ECRI urges the Estonian authorities to remove Roma children who are not disabled from special schools and reintegrate them into mainstream schools; all necessary steps should further be taken to avoid such unjustified placements in the future.

141. ECRI recommends again that measures be taken to combat the prejudices faced by Roma by, inter alia, ensuring the prosecution, under Article 151 of the Criminal Code, of those who incite hatred against them, including the media.

142. ECRI reiterates its recommendation that the contribution of Roma to Estonian society be made known to the rest of the population and that the majority be informed of their tragic fate during the Second World War.

Asylum seekers and refugees

143. In its third report, ECRI reiterated its recommendation that the Estonian authorities ensure that asylum seekers whose application had been rejected were able to file an appeal before an appeals court and that the authorities allow them to remain in the country for the duration of their application, including for their appeal. ECRI also recommended that the Estonian authorities ensure that asylum applications were processed with due regard for the asylum seeker's right

⁸² Women in Estonian Roma Communities, Study Report, Estonian Institute of Humanities of Tallinn, University Centre for Civil Society Study and Development, Margaret Tali, Kersti Kollom, Mari-Liis Velberg, Tallinn 2007, p. 6.

⁸³ The authorities stress that an application by the parent/s or the custodian and a decision by a consultative commission consisting of a psychologist and medical and other experts are required for a child's placement in a special school.

⁸⁴ Ibid.

to have his claim fully heard and examined by the competent authorities. ECRI recommended that the authorities establish a system for providing free legal aid to asylum seekers and that they clearly set out which material were considered irrelevant when the services of a translator were requested.

144. In its third report, ECRI urged the Estonian authorities to ensure that border guards' powers to review asylum claims at the border were the subject of the constant and binding review of the Citizenship and Migration Board in every case and throughout the asylum procedure. ECRI further reiterated that border guards' powers to reject asylum claims without applicants being able to file a suspensive appeal be abolished. Until then, ECRI strongly encouraged the authorities to monitor the implementation of the border procedure and recommended that they review this procedure to ensure that asylum seekers were not detained during its different stages, and if they were, to ensure that they had access to UNHCR.
145. Estonia continues to receive very few asylum applications even though, since ECRI's third report, it has joined the Schengen Area. The authorities have informed ECRI that between 2005 and 2008, a total of 46 asylum claims were received (11 in 2005, 7 in 2006 and 14 in 2007 and 2008). ECRI has further received information that by the end of March 2009, 8 persons had sought asylum in Estonia. ECRI has been informed by relevant actors that decisions on asylum applications are, generally, of a good quality and that the opinion of the United Nations High Commissioner for Refugees (UNHCR) is sought in this process. The Estonian authorities have informed ECRI that a negative decision on an asylum claim can be appealed in court and that the applicant is entitled to stay in Estonia during the procedure, so they will not be deported. They will, however, be issued with an order to comply with the decision rendered within a given period of time. It has also been indicated to ECRI that as there are very few cases decided on the merits, it is difficult to make a more in-depth assessment of the manner in which the asylum procedure functions. Other problems pointed out to ECRI include the lack of lawyers able to provide quality legal assistance, the lack of a sufficient number of NGOs dealing with asylum issues and the lack of interpretation (especially into languages such as Kurdish, Turkish and Arabic). Providing additional safeguards to vulnerable groups such as unaccompanied minors was also brought to ECRI's attention as an area where improvements are necessary.
146. On 1 March 2005, the new State Legal Aid Act entered into force and the authorities have indicated that free legal aid can be obtained under this law, if applied for and if it is clear that the applicant does not have the means to pay for his own legal services. The Act provides that the "categories of state legal aid" include legal representation in criminal, civil and administrative proceedings, preparing legal documents and "providing other legal counselling to a person or representing a person in another manner".⁸⁵ ECRI has, however, been informed that because the Illuka Centre for Asylum Seekers is located in a remote forest area near the Russian border, it is difficult for lawyers to access it. As concerns interpretation, the Estonian authorities have informed ECRI that it is provided, depending on the asylum seeker's country of origin, and that this type of service is often provided by telephone. Regarding translation services, as indicated in ECRI's third report, the authorities had stated that during the asylum procedure, applicants may be required to pay for any material the court deemed irrelevant, but ECRI noted that no clear criteria on what these would be existed. ECRI has, however, no information on measures taken to redress this situation as recommended in the third report.

⁸⁵ Article 4 (3).

147. UNHCR does not monitor the situation as concerns asylum applications at the border, but ECRI understands that, at the time of writing, this possibility was being discussed. UNHCR has trained border guards in the past, but as there are few asylum applications, the border guards have few opportunities to put their training into practice. The Estonian authorities have informed ECRI that there are 1500 border guards in the country and that study material from a kit provided to them has been very useful, because their first contact with asylum seekers may come years after they have received their training and the kit contains information on the manner in which they should handle the situation. However, concern has been expressed to ECRI about asylum seekers' access to the Estonian territory and the fact that there is a tendency to detain them. The authorities have explained that asylum-seekers are required to stay in Border-Guard facilities for the time it takes to go through a number of initial procedural steps; there is also a small number detained in expulsion centres (7 between 1.5.07 and 9.4.09, out of whom 2 were granted international protection). ECRI has also been informed that high levels of xenophobic attitudes were noted among border guards during training and that overall, they lack training, experience and appropriate education. It has thus been pointed out that additional legal safeguards are needed as concerns the asylum procedure at the border.
148. In its third report, ECRI recommended that the Estonian authorities provide adequate medical care, language lessons as well as other basic services to asylum seekers and refugees remaining at the Illuka Centre for Asylum Seekers. It further recommended that they provide adequate training to school teachers in the area to enable them to deal with refugees' and asylum seekers' children. ECRI recommended that the Estonian authorities carry out awareness-raising campaigns to ensure that local authorities understood the benefit of receiving refugees in their municipalities.
149. The Estonian authorities have informed ECRI that the Illuka Centre for Asylum Seekers provides basic necessities, health services and a subsistence allowance to the first family member. Furthermore, once-weekly Estonian language lessons are provided by a teacher from the local school. The authorities have indicated that NGOs provide social support services such as leisure and psychological support and they have assured ECRI that the local school at Illuka is ready to receive refugees' and asylum seekers' children and that the teachers therein have received extensive in-service training to that end. However, the centre, which has a 35-bed capacity was empty at the time of ECRI's visit in March 2009, as the remaining family of asylum seekers accommodated therein had been refused asylum in Estonia. On the question of the previously-mentioned remoteness and inaccessibility of the centre, ECRI was informed that due to financial reasons, it was doubtful that it would be relocated, but that legislation provides for the building of an initial reception centre for asylum seekers, a possibility which was being negotiated.
150. As concerns refugees, ECRI was informed that 4 persons were granted refugee status in 2008 and 1 person in the first semester of 2009. The law provides that refugees are entitled to state accommodation and allowance for one year, but it was indicated to ECRI that the majority of persons granted refugee status in Estonia leave. It thus appears that measures to integrate refugees into Estonian society, such as providing them with free Estonian language lessons are necessary.
151. In its third report, ECRI recommended that the Estonian authorities adopt the draft law on Foreigners who Need International Protection, in accordance with the principles contained in the 1951 Convention relating to the Status of Refugees. ECRI further recommended that they review the implementation of the safe third country principle by border guards and apply it on a case by case basis.

152. The Act on Granting International Protection entered into force in July 2006 to give effect to relevant European Union Directives. The authorities have informed ECRI that they organised training for border guards, migration officials and others dealing with asylum seekers on this law. As concerns safe third countries, the authorities have informed ECRI that an individual assessment is conducted in each case. Moreover, each asylum seeker is granted his/her own interview.
153. ECRI recommends that the Estonian authorities take measures to improve asylum seekers' access to legal assistance as well as to interpretation and translation services. It also recommends that they take steps to ensure that asylum seekers are not deprived of their liberty, unless no other viable option is available. ECRI recommends that the Estonian authorities pay special attention to the situation of vulnerable groups such as unaccompanied minors and that additional safeguards for their protection be adopted.
154. ECRI recommends that the legislation concerning the asylum procedure be strengthened to ensure asylum seekers' full ability to put their case at the border. ECRI recommends that the Estonian authorities take measures to provide initial and on-going training to border guards on international and national standards on racism and racial discrimination as well as on the 1951 Convention relating to the Status of Refugees. It also strongly recommends that steps be taken to ensure the monitoring of border guards' examination of asylum claims by organisations such as the United Nations High Commissioner for Refugees.
155. ECRI further recommends that measures be taken to ensure the integration of refugees into Estonian society, including by providing them with free Estonian lessons and vocational training.
156. ECRI recommends that the Estonian authorities ensure that no asylum seeker is returned to a transit country or country of origin which violates the principles set out in the Convention relating to the Status of Refugees, including that of non-refoulement.

Immigrants

157. In its third report, ECRI recommended that the Estonian authorities monitor the manner in which the immigration quota is applied in order to avoid any possible discriminatory practices or violations of fundamental rights such as, for example the right to respect for private and family life.
158. ECRI is not aware of any monitoring of the immigration quota as recommended above. The Estonian authorities have informed ECRI that no statistics are kept on the situation of immigrants, but that there is statistical information on matters such as whether they have a residence permit, on their citizenship and their reasons for being in Estonia. ECRI notes with interest that the Estonian Integration Strategy 2008-2013 provides for Estonian language lessons for newly arrived immigrants. While welcoming this measure, ECRI hopes that further steps will be taken to integrate newly-arrived immigrants into Estonian society by other means such as taking steps concerning their access to education, vocational training and employment. The authorities have informed ECRI that in 2006, the Aliens' Act introduced the status of long-term residence in Estonia in accordance with the relevant EU Directives.
159. ECRI encourages the Estonian authorities to implement measures planned within the framework of the Estonian Integration Strategy 2008-2013 to teach Estonian to newly-arrived immigrants and recommends that the requisite human and financial resources be allocated to that end. It also recommends that other integration measures, such as vocational training be taken for newly-arrived immigrants.

Immigrants without legal status

160. In its third report, ECRI urged the Estonian authorities to ensure that persons who have been living in Estonia for a long time and who make a request to have their situation legalised not be placed in detention by the Citizenship and Migration Board. ECRI also urged the authorities to ensure that those who lived in Estonia without a residence permit were given sufficient time to appeal a decision to deport them. It recommended that their situation be examined on a case-by-case basis. ECRI further urged the authorities to ensure that no one is deported without going through the legal procedure and a judge's order and that the Law on Obligation to Leave and Prohibition on Entry is re-amended accordingly.
161. The Estonian authorities have informed ECRI that persons who have arrived in the country without the requisite documentation are required either to apply for a residence permit or to leave voluntarily. Only persons whose judicially authorised expulsion has not been effected within 48 hours can be placed in the special facility of the Citizenship and Migration Board. ECRI is not aware of any measures taken to ensure that those living in Estonia for a long period of time and who apply to have their situation legalised are not placed in detention by the Citizenship and Migration Board. However, ECRI has also not received information on whether this practice continues; ECRI hopes that it has ceased so that more persons are encouraged to apply to regularize their status as residents.
162. ECRI reiterates its recommendation that the Estonian authorities amend the Law on Obligation to Leave and Prohibition on Entry to ensure that no expulsions occur without a court order.

Non-citizens in the electoral process

163. In its third report, ECRI reiterated its recommendation that the Estonian authorities allow non-citizens to vote or be elected to the leadership of cultural self-governments.
164. ECRI understands that non-citizens are still not allowed to vote or be elected to leadership of cultural self-governments. ECRI wishes in this regard to bring to the Estonian authorities' attention the Explanatory Report of the European Convention on the Participation of Foreigners in Public Life at Local Level which states that: "For those who live in a local community, numerous aspects of their daily life - such as housing, education, local amenities, public transport, cultural and sports facilities - are influenced by decisions taken by the local authority. Moreover, foreign residents participate actively in the life and prosperity of the local community. Therefore, for countries espousing the democratic principles of the Council of Europe it is fair to examine how a sometimes sizeable group of long-term local residents can contribute to the local decision-making process on matters which affect them."⁸⁶ As there are still many stateless persons and non-citizens in Estonia, greater flexibility in this area would thus improve their political integration at local level.
165. ECRI recommends that the Estonian authorities take measures to enable non-citizens to vote or be elected to the leadership of cultural self-governments and that a dialogue be initiated with their representatives on this question.

VI. Antisemitism

166. In its third report, ECRI strongly recommended that the Estonian authorities carry out information campaigns about the Holocaust throughout the country in order to ensure that the full gravity of the crime, its underlying ideology as well as the Nazi

⁸⁶ See, paragraph 18.

ideology were better known. It further recommended that this subject be included in all school curricula. Finally, ECRI urged the Estonian authorities to ensure that anyone who incites antisemitism by whatever means be punished in accordance with Article 151 of the Criminal Code.

167. Jewish representatives have informed ECRI that according to official statistics, there are 2000 Jews in Estonia, but that they estimate this number to be 2800 because not every Jewish person declares him/herself as such. Since ECRI's third report, a number of positive developments have occurred in Estonia as concerns the Jewish community: a new synagogue was opened in Tallinn in May 2007 and during its visit to Estonia in March 2009, ECRI was informed that a second synagogue would be opened in April 2009. At the time of writing, ECRI was not aware of whether this new synagogue had opened. As indicated in ECRI's third report, since 2003, the Estonian authorities have observed 27 January as the annual Holocaust and Other Crimes against Humanity Victims' Memorial Day. ECRI notes with interest reports according to which on 27 January 2007, the Estonian Prime Minister denounced the mass killings of Jews by the Nazis, which, he stated, must never be forgotten. The Estonian authorities expressed regret that Estonians collaborated in "crimes against humanity".⁸⁷ Reports also indicate that in 2007, Estonia joined the Task Force for International Cooperation on Holocaust Education, Remembrance and Research and that in January of that year, a *Teacher's Guide to the Holocaust*, compiled by the Estonian History Teachers' Association in cooperation with Living History Forum (Sweden) and co-financed by the authorities, was made available to teachers. The guide provides resources to assist in designing a program for individual classrooms to commemorate Holocaust Memorial Day and offers additional materials for Holocaust lessons in history classes. These teaching materials include a compact disc and digital video disc.
168. Jewish representatives in Estonia have informed ECRI that there is no antisemitism from the state, that in the last 5 years, the state has provided them with support and that they enjoy warm relations on all state levels. They have further indicated that the government reacts to antisemitic acts. They have, however, explained that the underlying attitude in society towards Jews is not positive. They have also informed ECRI that a book, which incited racism, was brought to the attention of the police who informed them that this type of act was now an administrative offence.⁸⁸ Reports indicate some antisemitic acts in 2007, including the painting in October and November of that year of a Star of David and the word "Jude» and "Eesti vaba" (Estonia is free) on a monument to Soviet soldiers in Haapsalu. An investigation was opened, but ECRI has no information on the outcome of this investigation. The commemoration in 2007, by Estonian veterans who fought alongside the Waffen SS against the Soviet army, reportedly drew criticism from the Simon Wiesenthal Centre. As indicated above⁸⁹, antisemitism on the Internet is a problem and Jewish representatives have informed ECRI that a few years ago a person was fined for antisemitism on the Internet.
169. While commending the Estonian authorities for their above-mentioned efforts on Holocaust remembrance and teaching, ECRI wishes to draw their attention to its General Policy Recommendation No. 9 on the fight against antisemitism, which provides useful guidelines on the manner in which their fight against antisemitism in all its manifestations might be strengthened, including by ensuring that the law

⁸⁷ See, The Stephen Roth Institute for the Study of Antisemitism And Racism, Baltic States 2007, Republic of Estonia.

⁸⁸ For more information on the legislation against racism, see "Criminal law provisions against racism" above.

⁸⁹ See, "Racism in Public Discourse".

penalises the public denial, trivialisation, justification or condoning, with an antisemitic aim, of crimes of genocide, crimes against humanity or war crimes committed against persons on the grounds of their Jewish identity or origin.

170. ECRI encourages the Estonian authorities to strengthen efforts undertaken to combat antisemitism and recommends that they draw guidance from its General Policy Recommendation No. 9 on the fight against antisemitism.

VII. Conduct of Law Enforcement Officials

171. In its third report, ECRI reiterated its recommendation that the Estonian authorities establish an independent system for monitoring complaints brought against law enforcement officials for discrimination. It further strongly recommended that they be trained on issues pertaining to racism and racial discrimination.

172. The authorities have informed ECRI that no independent mechanism for monitoring complaints against the police exists and that if a complaint alleging a crime committed by a member of the police, the Prosecutor handles the matter. The Prosecutor can either leave it in the hands of the internal police or, if the matter is serious, turn it over to the security police. The authorities have indicated to ECRI that in practice, the Prosecutor tends to turn such complaints to the police and that victims can also bring their complaints to the court or the Legal Chancellor.

173. Reports indicate that in the aftermath of the above-mentioned protests caused by the removal of the Bronze Soldier in April 2007⁹⁰, numerous allegations of police brutality, including against Russian protesters were made. However, reports indicate that these allegations did not lead to a large number of prosecutions. In its Concluding Observations dated 19 February 2008, the United Nations Committee against Torture expressed its concern about allegations of police brutality and excessive use of force by law enforcement personnel in Estonia, especially with regard to the disturbances relating to the Bronze Soldier in April 2007, well documented by a detailed compilation of complaints.⁹¹ ECRI also notes with concern reports, as indicated above⁹², that visible minorities have noted a lack of willingness by the police to combat racist crimes, and that the police are also prejudiced towards people of a different colour or religion. The Estonian authorities have informed ECRI that the police receive training on issues pertaining to racism and racial discrimination. ECRI is not aware of the extent of this training, but in view of these reports, it appears that such training needs to be reinforced.

174. ECRI recommends that the Estonian authorities provide for a body, independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and racially-motivated misconduct by the police as recommended in its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing.

175. ECRI strongly recommends that the Estonian authorities take measures to combat racism and racial discrimination within the police by, inter alia, training the police in human rights, including the right to be free of racism and racial discrimination, and in the legal provisions in force against racism and racial discrimination, and by taking measures to make the police aware of the fact that

⁹⁰ See, "Russian-speaking minorities and other ethnic minority groups" above.

⁹¹ UN Committee against Torture (CAT), Conclusions and recommendations of the Committee against Torture: Estonia, 19 February 2008, CAT/EST/CO/4, paragraph 23.

⁹² See, "Racial Violence" above.

acts of racial discrimination and racially-motivated misconduct by the police will not be tolerated, as recommended by ECRI's General Policy Recommendation No. 11.

176. ECRI recommends that the Estonian authorities take measures to ensure that the police thoroughly investigate racist offences, including by fully taking the racist motivation of ordinary offences into account and that they establish and operate a system for recording and monitoring racist incidents, as recommended in its General Policy Recommendation No. 11.

VIII. Media

177. In its third report, ECRI reiterated its recommendation that the Estonian authorities provide both Estonian and Russian-speakers with a forum in which they receive the same information in order to bring these communities closer together.

178. According to the Estonian Integration Strategy 2008-2013, media consumption among the Estonian-speaking and Russian-speaking populations is different and characterized by their relative separation. The Estonian Integration Strategy 2008-2013 notes that the Russian-speaking population mainly follows Russian channels, that Estonian Russian-language radio channels also play a role, while Russian-language local and national newspapers receive less attention. According to this strategy, one-third of the Russian-speaking population consider themselves regular consumers of media channels in Estonian; these are mostly persons who speak Estonian well and live in an Estonian-language environment.⁹³ The Estonian authorities recognize themselves that so far, the number of programmes on Estonian Television (ETV) targeted at the Russian-speaking population has been small. They note that according to studies, the Russian-speaking population show high support for increasing the number of programmes in Russian and other foreign languages.⁹⁴ The authorities have thus established as one of the goals in the Estonian Integration Strategy 2008-2013 ensuring that the majority of the people whose mother tongue is not Estonian regularly receive information from Estonian media sources and trust them.⁹⁵ ECRI hopes that the implementation of this goal will serve to provide shared information forums for both Russian and Estonian-speakers.

179. ECRI encourages the Estonian authorities to fully implement the goal established in the Estonian Integration Strategy 2008-2013 of ensuring that the majority of people whose mother tongue is not Estonian regularly receive information from Estonian media sources and trust them. It recommends that Russian-speakers be consulted and involved in the implementation of this goal.

⁹³ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikuminister.ee/index.php?id=11386>, p. 9.

⁹⁴ Ibid.

⁹⁵ Estonian Integration Strategy 2008-2013 (Unofficial translation), <http://www.rahvastikuminister.ee/index.php?id=11386>, p. 17.

IX. Monitoring racism and racial discrimination

180. In its third report, ECRI recommended that the Estonian authorities establish a system of ethnic data collection, with full respect for the principles of confidentiality, informed consent and the voluntary self-identification of the people involved.
181. No system of collecting ethnic data appears to exist, although ECRI is not aware of any legal impediments to this being done with full respect for the above-mentioned principles. As indicated above⁹⁶, this type of data is necessary to assess members of minority groups' situation in areas such as employment and education and to find solutions to their problems. Data collected within the framework of the Estonian Integration Strategy 2008-2013 have proved the usefulness of ethnic data collection.
182. ECRI strongly recommends that the Estonian authorities consider ways of establishing a coherent, comprehensive data collection system in order to monitor the situation of minorities by means of information broken down according to, for instance, ethnic origin, language, religion and nationality. Data should be collected in different public policy areas and the authorities should ensure full respect for the principles of confidentiality, informed consent and voluntary self-identification of people as belonging to a particular group. This system should also take into consideration the possible existence of double or multiple discrimination.

⁹⁶ See, "Vulnerable/Target Groups" above.

INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the authorities of Estonia are the following:

- ECRI recommends that the Estonian authorities take all possible measures to ensure the quality of education while strengthening Estonian language instruction to Russian-speaking children and respecting their identity. This should include monitoring the achievement levels of children and strengthening the training of Russian-language school teachers to teach in Estonian in accordance with the reforms set out in the Basic Schools and Upper Secondary Schools Act, by inter alia, investing the necessary human and financial resources to that end.
- ECRI recommends that the Estonian authorities continue measures taken thus far to reduce the number of stateless persons, in full consultation with representatives of the concerned persons.
- ECRI urges the Estonian authorities to remove Roma children who are not disabled from special schools and reintegrate them into mainstream schools; all necessary steps should further be taken to avoid such unjustified placements in the future.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.

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APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Estonia

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Estonia on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice, could only take into account developments up until 3 July 2009, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

**COMMENTS BY THE GOVERNMENT OF ESTONIA
ON THE REPORT OF THE EUROPEAN COMMISSION AGAINST RACISM
AND INTOLERANCE ON ESTONIA (fourth monitoring cycle)**

The Government of Estonia welcomes the continued dialogue with the European Commission against Racism and Intolerance (ECRI) and uses hereby the possibility to submit its comments on some parts of the ECRI's fourth report where, in the Government's opinion, there is a further need for clarifications or additional information. In the interest of clarity references to some individual paragraphs, in addition to some general remarks concerning the report are made.

Concerning ECRI's findings on Estonian language courses (para-s 12 to 17) the Government confirms that the practice in force since 1 January 2009 of compensating the full cost of language studies for people who pass the language proficiency test will continue. In addition to that, in course of 2009/2010, at least 800 persons have the opportunity to attend free Estonian language courses that are available regardless of person's intention or not to take the language proficiency test or apply for citizenship. Furthermore free courses are offered to education workers and police; there are programmes of work-exchange that include a language course and work in an Estonian-language environment.

According to the decree of the Minister of Education and Research of 3 December 2008, as of the schoolyear of 2009/2010 the Estonian language examination for basic schools comprises the Estonian language proficiency test required for acquiring citizenship in all cases. The Ministry of Education and Research has compiled an "information package" about legislative changes for school directors.

In para 19 the report refers to the European Convention on Nationality to which Estonia is not a party. However, under Estonian laws discrimination is prohibited on grounds of religion, race, colour or national or ethnic origin.

With regard to the recommendation in para 20 we would like to recall that it is an internationally recognised practice that in the interests of national security the states have a wider discretion while granting citizenship to persons who have been in foreign security or intelligence service. The Supreme Court of Estonia has ruled that § 21, para 1.5 of the Citizenship Act is in conformity with the Constitution of Estonia, as well as with article 26 of the UN Covenant on Civil and Political Rights. Furthermore, the Government wishes to point out that the law takes into consideration national security as well as right to family life, as § 21 para 2 of the Citizenship Act provides that Estonian citizenship may be resumed by or granted to a person who has retired from the armed forces of a foreign state if the person has been married for at least five years to a person who acquired Estonian citizenship by birth and if the marriage has not been dissolved.

The Government would like to point out that the information given to in para 22 concerning language requirements is not entirely accurate. According to the government decree in force since July 1, 2008 the former language proficiency qualifications were re-named to levels A to C in line

with the Common European Framework of Reference for Languages. The former qualifications remain valid and the decree indicates how former qualification levels correspond to new levels. Some new categories of civil servants who were not specified in the previous decree were added; in some cases it may mean that the employees will have to obtain a higher proficiency in the state language. At the same time a transitional period of 2 years (until July 1, 2010) was established for achieving compliance.

Concerning ECRIs recommendation in para 24 the Government would like to explain the control mechanisms in place for the Estonian Language Inspectorate.

The Language Inspectorate operates under the same regulations as other executive agencies in Estonia. The main function of such agencies is to exercise state supervision and apply the enforcement powers of the state on the bases and to the extent prescribed by law. The minister, in this case the Minister of Education and Research monitors the legality and purposefulness of the activities of government agencies within the area of competence of the ministry and their officials. In the course of the supervision the minister has the power to invalidate legal instruments and acts of the executive agencies. Directors General of the executive agencies exercise supervisory control over the activities of the regional offices of the executive agency or inspectorate and of their officials to the extent and pursuant to procedure specified by the minister.

In addition the acts of the language inspectors can be contested in the administrative courts; where there are issues concerning fundamental rights the office of the Legal Chancellor is available as well as the Gender Equality and Equal Treatment Commissioner in cases of discrimination.

Currently there are 22 employees in the Language Inspectorate; of those 11 are actual inspectors. Each year the Language Inspectorate publishes a report on its activities indicating the number of the inspections carried out and warnings and orders issued. The numbers are broken down according to specific fields, such as education, local government, health services etc; also the trends as compared to previous years are indicated. According to the latest reports, in 2007, 3029 precepts were issued, of those 5 were contested; in 2008 the inspectors issued 2402 precepts and 5 of those were contested either with the director general of the inspectorate or in court. Complaints mostly concerned the requirement to add translation into state language to public information.

The Government would like to inform that the Ministry of Education and Research is already planning new activities to ensure the quality of language courses as recommended in para 27.

Several ECRIs recommendations like in paras 28 to 33 and part II, concern Russian population in Estonia. The Government would like to point out that although there are 25% of Russians among foreign nationals, according to statistics representatives of more than 120 nations live in Estonia. A lot of them have culture and education in their own language and therefore it is not correct to refer to them as "Russian-language minorities".

The Government of Estonia is of the position that the protection of minority rights has to be ensured under all legislation, not by some specific acts only, such as a law on national minorities. The rights of all the minorities

are guaranteed by the Constitution and other acts in conformity with the international law. Moreover, in force since 2009 the Equal Treatment Act specifically prohibits discrimination on the basis of nationality (ethnic origin).

The Cultural Autonomy of National Minorities Act which is based on the similar law of 1925, is just an additional possibility for traditional national minorities in Estonia. All the possibilities mentioned in that law for developing culture, education and religion in their own language are also available for minorities not having cultural autonomy. These rights are guaranteed by the Estonian Constitution.

The integration process is carried out according to the Estonian Integration Strategy 2008 - 2013, that was elaborated in cooperation with the representatives of ethnic minority organisations. The experience of the Government with integration programmes indicates that the most effective way of integration is via implementation of programmes by participation of the intended target groups.

The Government acknowledges the need for a body or forum where the representatives of minorities could communicate, discuss their problems and present their initiatives to the government. We see that such a forum could develop, for example, on the basis of the current cultural organisations of national minorities.

The Government would like to inform that the Ministry of Justice has started preparing amendments to the Penal Code and will take ECRI's recommendation in para 41 concerning racist crimes into consideration.

With regard to para 149 the Government would like to specify that according to the Act on Granting International Protection to Aliens the subsistence allowance is provided to all family members. The allowance is paid according to the principle that the first family member will get an allowance equal to 100% of established subsistence level and the second and every other family member will get an allowance equal to 80% of subsistence level.

With regard to para 156 the Government stresses that according to the Act on Granting International Protection to Aliens an asylum seeker can not be returned to a state where he/she would face serious risks, like a country that does not live up to the principles of the Convention relating to the Status of Refugees. To ensure this, all the applications are analysed case-by-case to determine whether the return to a given state would be safe for each applicant concerned.

