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ENAR Shadow Report 2006

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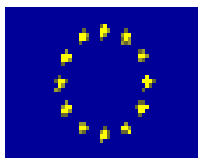
RACISM IN ESTONIA

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it. Even where there is extensive official data, NGOs offer a vital alternative data source that comes directly from experiences of those individuals and communities experiencing racism on a daily basis.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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1. Executive summary

In 2006, most of the developments that took place in Estonia concerning equal treatment of ethnic minorities can be assessed as rather positive, even despite the fact that these developments may have not always been brought about through the good will of the state, but rather through requirements imposed by the EU. Unfortunately, there still is a lack of research, statistics and case data regarding the situation of ethnic minorities in Estonia, which limits evaluation of the scale of racism in Estonia. This observation holds true for almost all areas addressed in the present report. In most cases, it is only NGOs and media that can provide information.

Employment and criminal justice are the only two areas that are regulated by appropriate equality legislation as Estonia has failed to fully transpose the EU Equality Directives into its national legislation, and therefore areas such as access to goods and services, housing etc. are not covered by existing legislation. Importantly, the draft *law on Equal Treatment* was prepared in 2006 and sent for adoption. Unfortunately, it seems that it will not be passed by the Parliament earlier than the end of 2007. Even so, this development is extremely important. Another positive development in process is the State Integration Programme 2008 – 2013. It presents a new view to the process of integration, for example considering the socio-economic integration of minorities.

Amendments to the *Criminal Code* entered into force in July 2006 and though they positively impose responsibility for incitement to hatred, these amendments in general cannot be considered positive. The negative results of these amendments can be immediately seen in the statistics of cases investigated by the police.

Counter terrorism measures are not yet developed in Estonia, as no threat is acknowledged officially by any organisation or by the state. Despite this, politicians and high-rank officials often cannot express their own ungrounded opinions labelling certain countries and local organisations as a threat to the order and security of the country. Regretfully, the activities of NGOs that try to protect ethnic non-Estonians and dare to criticise the state's inaction with respect to discrimination are often labelled as a threat. In this context, civil society opinion is unfortunately not duly taken into consideration and almost no funds are available for human right projects.

Estonian society is divided into two communities separated on the grounds of language. It is also important to mention that the attitudes of society in general are rather intolerant especially concerning visible minorities. Most of the conflicts in various spheres of life, however, take place on the basis of language.

The present report also outlines a series of recommendations towards improving the situation of racism in Estonia. In this regard, the state must:

- Adopt appropriate equality legislation that would guarantee equal treatment and enable effective remedies of protection;
- Initiate research that would provide data about discrimination in various spheres of public life;
- Accept that discrimination *is* relevant to Estonia and that measures must be taken to improve the situation. Initiate the discussion and raise awareness of the issue in society;
- Provide sufficient funds for the programmes and projects and involve civil society as partners;
- Amend and develop national legislation, including the *Criminal Code*, in conformity with international standards and EU requirements;

Continue and further strengthen positive actions already initiated, aimed at social inclusion and improving integration mechanisms.

2. Introduction

Estonia regained its independence in 1991 but is still very much influenced by its near past. Modern Estonia is a multicultural country where people of other ethnic origin reside together with ethnic Estonians. Despite that there is only one official state language, Estonian, there is a rather large group of residents that consider Russian to be their mother-tongue; moreover, their proficiency of Estonian is rather limited. The separation of Russian and Estonian speaking communities constitutes one of the main problems of modern Estonian society. Furthermore, Estonian society is often intolerant as evidenced in various studies and by the experiences of many residing in Estonia, particularly visible minorities. In June 2006 the Dutch Ambassador to Estonia resigned before the end of his mandate due to the failure by society to accept his homosexuality and his black partner.

After gaining independence, the country has been undertaking significant steps to promote democracy and to match the criteria of the European Union. In 2004, Estonia joined NATO and the European Union, which were important steps for the development of the country. Importantly, Estonia had to harmonise its legislation and develop policies in accordance with the EU requirements. Unfortunately not all the criteria are yet fulfilled; however positive developments continue to take place.

The year 2006 brought several important developments. One of the most positive among these was the preparation of the draft *law on Equal Treatment* that was submitted in early 2007 to the Parliament for adoption. The act will promote equal treatment and non-discrimination and introduce measures to combat the violation of these principles. Unfortunately, the current situation is such that public awareness about these issues is rather low, which explains in part the low number of complaints submitted to the relevant bodies. At the same time authorities are often reluctant to discuss the issue or accept that the problem exists. If passed, the *law on Equal Treatment* will hopefully initiate discussion of these issues among the public more actively.

The present report aims to present the situation of racism and discrimination in Estonia as it affects various sectors, as well as to assess the attitudes of the authorities towards the problem. It covers the period from January to December 2006. Due to a lack of recent studies on the issues, the author has in some cases reverted to using data from earlier studies, however only when there is no reason to assume data has changed drastically. The author uses data provided in the media and in the database of the Legal Information Centre for Human Rights, as there is generally a lack of data concerning officially registered cases. The Legal Information Centre for Human Rights (LICHR) runs a project which includes a victims' hotline and provides legal aid to those who feel their rights have been violated.

3. Communities vulnerable to racism

Estonia is a relatively young independent statehood, where recent history plays an important role in shaping policies. Attitudes and behaviour of members of Estonian society towards minorities are often influenced by the Soviet Regime period of 1940-1991, or as it has been referred to by some sources, the period of 'Soviet occupation'.

Modern Estonia is a multiethnic society, where as of 1 January 2006, **ethnic minorities** make up 32% of the population. The majority of them are **of ethnic Russian origin** (approximately 80% of the non-Estonian population, or 25% of the total population).¹ In some areas ethnic minorities constitute an absolute majority, for example in Ida-Viru County they make up some 80% of the total population².

According to the data available for 31 December 2006, the number of stateless persons, the vast majority of whom were Soviet Union citizens and for a number of reasons did not or could not obtain Estonian citizenship, was 125,779 persons³ or around 10% of the total population. According to the data available at the end of the 2005-year, approximately 82% of ethnic non-Estonians have Estonian citizenship and 8% have citizenship of other countries including EU member states⁴, however the majority are from the Russian Federation. There is ample reason to assume that this group – **ethnic non-Estonians residing in Estonia since Soviet times**, is the most vulnerable to racism and discrimination.

In the course of a 2005 sociological study in Tallinn, 17.1 % of ethnic non-Estonians alleged that they had experienced limitations to their rights or degrading treatment in the workplace on the basis of their ethnic origin during the past 3 years. Ethnic non-Estonians also claimed to have received unequal treatment in other sectors: 11.2% in education, 28.8% by service providers, 9.9% by restaurants, 12.5% in housing and 21.3% in public transport.⁵

In 2006 the Legal information Centre for Human Rights continued to operate a hotline for the victims of discrimination. A total number of 1122 calls and applications have been registered, 778 of them were related to discrimination⁶.

In 2002, the Ministry of Social Affairs mentioned the following as the main groups at risk in the labour market: the young, the long-term unemployed, disabled persons and non-Estonians without Estonian language proficiency.⁷ For

¹ www.stat.ee.

² National Census, Statistical Office of Estonia, 2000.

³ <http://www.rahvastikuminister.ee/vaade2118.html?lang=Eesti&q=Rahvusvahemused%20ja%20integratsioon&a=Kodakondsus&id=100>.

⁴ Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 13.

⁵ Klara Hallik, Vadim Poleshchuk, Andrus Saar, Aleksei Semjonov, *Estonia: Interethnic Relations and the Issue of Discrimination in Tallinn*, Tallinn, 2006; ISBN 9985-9542-3-8.

⁶ Database of the Legal Information Centre for Human Rights (LICHR), 2006 - 2007.

⁷ *Sotsiaalministeerium, Eesti Vabariigi tööhõive tegevuskava 2003*, Tallinn, 2002, p. 9.

instance, in 2003, ethnic non-Estonians made up more than 60% of the people unemployed for 24 months and longer.⁸

The data above provides a general picture of relevant issues and the scale of the problem. At the same time, there are almost no cases registered by official bodies mandated to deal with cases of discrimination, such as the Chancellor of Justice, which is the local equality body⁹, and the Labour Inspectorate. There are also no cases brought to court.

New-migrants, those who settled in Estonia after 1991 including both EU nationals and third country nationals, make up approximately 3% of all foreigners¹⁰. The majority of new-migrants come from the former Soviet Republics and only a small number come from EU Member States mainly for the purpose of employment.

While it is safe to say that **visible minorities** are not high in numbers in Estonia, there is unfortunately no statistical data about the precise size of this group. According to the information received from NGOs representing visible minorities, the attitudes of a society are rather negative and intolerant towards them¹¹. Stereotyping and prejudice against them is rather frequent and results in intolerance and hatred especially among middle-aged Estonians¹².

Jews are also vulnerable to racism. According to the last national census in 2000, the number of Jews in Estonia was 2,145¹³. Anti-Semitism expressed verbally by radicals is not unusual in the public sphere (on the internet and on occasion in printed publications). There are, however, no studies that document the attitudes of Estonian society towards this ethnic group as well as no officially reported cases of anti-Semitism during the 2006 year.

The **Roma population** is rather small in numbers. According to official data from the last national census in 2000, the number of ethnic Roma was slightly over 500¹⁴, although other sources estimate numbers to be between 1500 and 2000¹⁵. This does not however mean that the Roma community does not suffer racism and discrimination, but rather that while the intensity of their experiences may be the same or worse than in countries with larger Roma populations, the awareness and representation of these issues in Estonia is limited.

The number of **asylum seekers and refugees** in Estonia is insignificant, even despite of the fact that neighbouring countries such as Finland experience floods of asylum seekers. The total number of applications for asylum between 1997 and 2005 was 106; only 4 applicants were granted asylum under the Convention,

⁸ Statistical Office of Estonia, *Labour Force 2003*, Tallinn, 2004, Table 93.

⁹ Oiguskantsleri seadus, RT I 1999, 29, 406.

¹⁰ Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 24.

¹¹ Written responses to a questionnaire circulated by the author for the purposes of the present report, 14 June 2007.

¹² Ibid.

¹³ <http://pub.stat.ee/px-web.2001/Dialog/Saveshow.asp>.

¹⁴ National Census, 2000.

¹⁵ For example, according to data of the North-Estonian Roma Union and the European Roma Rights Centre.

10 were granted subsidiary protection, 49 were refused and 28 applications were terminated or suspended. In 15 cases the asylum application was refused.¹⁶

The Estonian society is rather indifferent towards **religion**. According to some studies, non-Estonians are more religious than Estonians. The majority of belong to the Lutheran church (14.8%); the second biggest group is Orthodox (13.9%)¹⁷. The Muslim community is quite small in numbers in Estonia. At the time of last national census in 2000, the number of Muslims was 1387 persons¹⁸. Most among them have been residing in Estonia since Soviet times and belong to ethnic groups originating from the republics of the former USSR (Azerbaijanis, Tatars etc.). In most cases they are rather secular and cannot be considered to be a visible religious group, e.g. they do not require special conditions at work and women do not wear head-scarves. There are, however, new members of the Muslim community, mainly new immigrants, who are less secular and can be considered a visible religious group.

There has been almost no specific research conducted in Estonia to study the situation of **multiple discrimination** experienced by persons belonging to more than one vulnerable group. According to the data available from the Estonian Statistics Bureau, the income difference between women and men in 2005 was 25.4%¹⁹. Traditionally women are employed in lower-paid occupations such as teaching, cleaning etc. According to women's rights NGOs, women in Estonia experience unequal treatment compared to men even in positions that are well paid.²⁰ At the same time the unemployment among young people aged 15 to 24 is twice as high as among other age groups²¹. Therefore, it can be assumed that youth and women belonging to ethnic minority groups are more vulnerable to discrimination and are vulnerable to discrimination on multiple grounds.

In 2005, the 'Working Life Barometer' study ordered by the Ministry of Social Affairs, revealed that 14% of respondents considered their colleagues to have been treated unequally because they were elderly; 11% for being too young and because of their state language proficiency; 6% for belonging to an ethnic minority; and 8% for having a chronic disease or disability²².

¹⁶ Citizenship and Migration Board, *Yearbook 2006*, Tallinn, 2006, p. 30.

¹⁷ National Census, 2000.

¹⁸ <http://pub.stat.ee/px-web.2001/Dialog/Saveshow.asp>.

¹⁹ <http://pub.stat.ee/px-web.2001/Dialog/Saveshow.asp>.

²⁰ Estonian Women's Associations Roundtable, written communication, 5 June 2007.

²¹ <http://pub.stat.ee/px-web.2001/Dialog/Saveshow.asp>.

²² Tööelu baromeeter, Saar Poll, 2005.

4. Manifestations of racism and religious discrimination

It is rather difficult to estimate the situation regarding racism in Estonia as there is a clear lack of statistical data and research in this area; moreover, public awareness of the issues is rather low which can in part explain the low number of cases registered by the relevant bodies. For a very long time, authorities totally denied that racism and discrimination of ethnic and linguistic minorities occurs in Estonia. Even today, the majority of officials and decision-makers as well as the general public consider the situation faced by minorities to be 'normal'.

At the same time minority groups report suffering intolerant behaviour, especially visible minorities. In June 2006, the Dutch Ambassador to Estonia resigned before the end of his mandate since Estonian society was not ready to accept his homosexuality and his relationship with his black partner. He claimed that people were prejudiced against him and that his partner was repeatedly insulted on the street. He decided to leave because the situation for him and his partner in Estonia was very difficult.²³

There are not many NGOs working on the issue of racism in Estonia, on the one hand due to a lack of awareness and on the other hand due to the lack of specific funds for related projects allocated by the State. There indeed exist budget lines aimed at human rights related projects in general, however they are very limited and do not correspond to the needs of the civil society. Moreover these funds are not likely to be provided for activities addressing racism and discrimination given the unpopularity of these issues.

The high politicisation of these issues is another factor which discourages civil society from working on the topic of racism and discrimination since authorities have very negative attitudes towards those who have the courage to oppose them. Racism has not been officially recognised by authorities as a legitimate issue in Estonia. For example, in the past 3 years, organisations providing legal aid to the Russian-speaking minority as well as conducting research on racial discrimination were mentioned in the Security Police annual reports under the heading of 'anti-constitutional threats' and 'in conjunction with Russia'.²⁴

The employees of the LICHR in particular have been attacked on numerous occasions and several attempts have been made by certain Estonian officials to discredit the LICHR. Despite these conditions, there are still NGOs that have the courage to deal with the issue.

²³ 'The Ambassador will leave the country before his mandate is over', in *daily Postimees*, 8 June, 2006.

²⁴ Security Police Annual report 2004. 2005, 2006.

Example of NGO Good Practice

The **Legal Information Centre for Human Rights** oversees a **hotline for victims of discrimination**. The project is aimed at any individual who feels that they have been treated unequally in any of sphere of life. Project activities include: telephone and internet consultations, in-house provision of legal aid for those who wish to take a legal action, support by addressing various state institutions with enquiries and complaints where necessary, publications about discrimination and cases in Estonia, and awareness-raising. The project is innovative as it provides a services and high quality legal aid to victims on issues that are otherwise ignored in society.²⁵

4.1 Employment

Employment is one of the only areas in Estonia that is regulated by appropriate legislation providing some legal provisions to ensure equal treatment. However there is still a lack of complaints launched before competent bodies. One positive development in this area in 2006 was the initiative by the Labour Inspectorate to begin gathering statistics regarding complaints of unequal treatment on any grounds in employment.

In 2006, only 7 complaints regarding discrimination were submitted to the body, none of them regarding ethnic discrimination²⁶. No complaints regarding unequal treatment in employment were launched before the Chancellor of Justice in 2006.²⁷ However, compared to the situation as witnessed by NGOs working with minority groups, these statistics are not representative of the reality on the ground. NGOs and the media have documented cases of racism and discrimination; examples of which will be outlined throughout the following sections.

Another positive development is the research that was carried out by Tartu University regarding the difference of income between Estonians and non-Estonians based on wage data that was analysed for the years 1989 to 2005. This research revealed an income-gap between Estonians and non-Estonians which is varies by county. Furthermore, the research confirms that income-gap is cannot be attributed to differences in education levels or language proficiency. The only reasonable explanation for the phenomenon was the entry barriers faced by minorities combined with low-level segregation and segregation from social networks that help in finding employment.²⁸

²⁵ For more information see: www.lichr.ee.

²⁶ Labour Inspectorate, written communication, 9 January 2007.

²⁷ Legal Chancellor, written communication, 5-3/0608588 of 5 January 2007.

²⁸ http://www.obs.ee/~siim/Estonian_wage_gap.pdf.

In recent years the unemployment rate among non-Estonians was generally twice as high as among Estonians (see the table below). One of the main reasons for such a gap could be the State language proficiency requirements for many positions. In addition to this, the Estonian labour market continues to be ethnically divided. For example, many non-Estonians are forced to work in unstable occupations. State policies often contribute to a worsening of the situation, so that in addition to racism and discrimination on an individual level, minorities face various structural barriers that inhibit their access to the labour market.

The percentage of unemployed among 15 to 74 year olds in Estonia, disaggregated by ethnicity and gender (2001-2005)²⁹:					
	2001	2002	2003	2004	2005
ESTONIANS					
All	10.4	7.9	7.3	6.4	5.3
Males	11.6	8.9	7.6	7.4	6.7
Females	9.1	6.9	6.9	5.4	3.9
NON-ESTONIANS					
All	16.8	14.9	15.2	15.6	12.9
Males	15.6	14.5	15.2	16.3	12.8
Females	18.1	15.3	15.3	14.9	13.1

In 2006 actions taken by the Language Inspectorate adversely affected the non-Estonian population. Russian school teachers as well as taxi drivers were investigated for their Estonian language proficiency³⁰; the latter being predominantly Russian-speaking, who in most cases could not get another reasonably paid job due to the low level of Estonian language proficiency. The language requirements for these two categories are especially arguable and had been questioned repeatedly in public discussions and in the media. Similarly, in its Second Opinion on Estonia (2005), the Advisory Committee on the Framework Convention for the Protection of National Minorities came to the conclusion that *'the present language proficiency requirements are unrealistic in some sectors and do not fully take into account the practical situation in the sectors concerned, as is suggested by the extraordinarily high number of infringements of the [Law on Language] detected by the Language Inspectorate'*.³¹

²⁹ Statistical Office of Estonia, public database at <http://www.stat.ee>, (01.06.2006).

³⁰ <http://www.keeleinsp.ee/?menu=30&news=459>.

³¹ ACFC/INF/OP/II(2005)001, Advisory Committee on the Framework Convention for the Protection of National Minorities, *Second Opinion on Estonia adopted on 24 February 2005*, para. 164.

Discrimination in Employment

Case 1:

The employees of the Russian-speaking department of the internet shop 'Quelle' complained that their employer had increased the salary of the Estonian-speaking department, while the salaries of the Russian-speaking department employees remained the same even though the tasks and workload are similar in both departments. The employer's representative commented that the increase of salaries in the Russian-speaking department is not envisaged. The employees turned to the Labour Inspectorate for protection. The Inspectorate, however, did not see any violation in such actions³².

4.2 Housing

Information regarding discrimination in access to housing is not officially collected nor is the situation specifically monitored by any NGO or public body. Therefore it is rather difficult to evaluate on what scale problems in the housing sector exist. Nevertheless, some information is available.

In the course of a sociological study carried out in Tallinn and published in 2006 Estonians and non-Estonians were asked questions regarding unequal treatment in housing. Only 3% of Estonian-speaking participants mentioned experiencing unequal treatment while 13% of non-Estonian participants did.³³ It is suspected that in the majority of these cases, the negative experience of denied or limited access to housing is related to not only conflict over language use (Estonian – Russian) but also due to prejudice and stereotyping (see Case 1 below).

The concept of social housing is not well developed in Estonia. Housing is regulated at a municipal level by special decrees adopted by City Councils. A special commission decides who will be granted municipal housing and the number of social housing allotments is rather limited. Applicants are supposed to queue in order to receive a contract and in principle, the ethnic origin of the applicant should have no bearing on whether they are granted a housing allotment. In practice however, information received from the minority community attests to the contrary.

Mortgages for purchasing residential property are widely available and often at very preferential rates, however they are available only for those with rather high levels of income and stable employment. While in theory there are no specific provisions that would prevent minorities from applying for mortgages, these

³² LICHR database and 'Only for Estonians' daily Vesti Dnja, 17.10.2006.

³³ Klara Hallik, Vadim Poleshchuk, Andrus Saar, Aleksei Semjonov, [Estonia: Interethnic Relations and the Issue of Discrimination in Tallinn](#), Tallinn, 2006; ISBN 9985-9542-3-8.

requirements exclude minorities since, due to barriers in access to employment, it is often difficult for them to secure stable employment and high incomes.³⁴

In 2006, there were no official complaints with regards to quality of housing in either the refugee reception centres or in the deportation detention centres.

The Roma community reported that those of them residing in the south of the country do have problems with regards to a lack of available quality housing.

Discrimination in Housing

Case 1:

Rental apartments have been denied to individuals of African, Arab and Indian origin. Landlords in these cases, ethnic Estonians, did not want to host any foreigners and the applicants themselves claim that it was implied that this was because of their origin and colour of skin.³⁵

Case 2:

An Estonian family living in a flat on the same floor as a 90y-year old woman constantly insults and harasses her and her relatives. The insults include obscenities such as calling them 'piece of sh*t immigrants' as well as telling them to 'go home or die', 'because they have no right to stay' and 'because Estonians hate them'. The man in the family kicks or pushes the elderly lady every time in the hallway or stairwell.³⁶

Case 3:

A family of five and a pregnant women (originally from Morocco) have resided for three years in a one-room flat that is 38 m², without a bathroom or shower. They have repeatedly asked the municipality and other authorities for better living conditions, however so far they have only been put on a waiting list. At the same time, their neighbours, Estonians by origin, had separated from each other and after two months the husband was granted a municipal two-room flat where he now lives with only his dog³⁷.

4.3 Education

There were no significant changes in 2006 regarding education. There is still no official data with regards to cases of racism or discrimination in this field. The Chancellor of Justice did not receive any complaints with regards to this issue. In the course of a sociological study carried out in Tallinn, it was identified that 12%

³⁴ Estonian National Action Plan for Social Inclusion 2004.

³⁵ Written responses to a questionnaire circulated by the author for the purposes of the present report, 14 June 2007.

³⁶ LICHR database.

³⁷ Written responses to a questionnaire circulated by the author for the purposes of the present report, 14 June 2007.

of Russian-speakers surveyed felt they had been treated unequally by education institutions during the last three years; 32 % of participants were in education institutions during that period.³⁸

Primary education in Estonia is organised in Estonian and Russian languages. Some schools, mainly private schools, offer other languages as the language of instruction for some subjects. While the right of minority children to receive elementary education in Russian is recognised, this right in upper-secondary education is constantly debated. The *Law on primary school and upper-secondary school* provides for the transition of the **upper-secondary education** to Estonian language of instruction starting from 2007. After this date 60% of the subjects should be taught in Estonian. The transition period can in theory be prolonged on an individual basis if the authorities permit.³⁹ As the period of transition is approaching, there has been increasing debate on the issue, especially in the run-up to elections in March 2007. While the former minister Mailis Reps stated repeatedly that the transition process should be made as smooth as possible, there are unfortunately no guarantees that approach will continue under the new minister Tõnis Lukas, who is known for his radical views on the issue.

The Roma community has also reported problems regarding education. Roma children are very often wrongly sent to schools for children with mental difficulties. Despite efforts by organisations representing the Roma community to change the situation, authorities from the Ministry of Education continue to ignore the issue. A special commission has been formed to tackle the case of Roma education, unfortunately the commission does not include representatives of the Roma community nor does it take into consideration their recommendations.⁴⁰ Worse still, at an international conference that took place in 2006, under the Bertalozzi programme, one of the prominent speakers Ms. Merle Karusoo invited by the Ministry of Education stated that the Roma are themselves to blame for their situation with regards to education and that their requests are not worth paying attention to as they are simply aliens in Estonia and they should instead go participate in song festivals in Latvia⁴¹.

Among the positive developments in 2006 a special department was launched, the Department of Ethnic Minority Education. Its main aim is to shape and monitor the education of ethnic minorities, address the interests of minorities and support inclusion of their linguistic and cultural identity in education.⁴²

Publicly-funded higher education is conducted in Estonian with some exceptions and in some cases in English, private higher education institutions organise classes also in English and Russian, however as a rule private

³⁸ Klara Hallik, Vadim Poleshchuk, Andrus Saar, Aleksei Semjonov, [Estonia: Interethnic Relations and the Issue of Discrimination in Tallinn](#), Tallinn, 2006; ISBN 9985-9542-3-8.

³⁹ *Law on basic school and upper-secondary school*, art 9, 52.

⁴⁰ North-Estonian Roma Union, written communication, 20 June 2007.

⁴¹ *Ibid.*

⁴² *The Statute of the Department of the Ethnic Minority Education, Resolution 301* of the Ministry of Education, 04.04.2006.

universities offering classes in Russian are often not officially accredited for certain departments or academic levels. This fact, indeed, seriously undermines the possibility to study for those non-Estonians, whose proficiency in Estonian or English is limited.

There are serious grounds to assume that many Russian-speaking students at universities, both public and private, often experience unequal treatment from professors, in the form of additional requirements, less favourable conditions, harassment, depreciation of the marks, etc. In most cases, however, these instances are not officially reported due to fear of punishment. This is especially true in case of public universities where competition for a place is rather intense.⁴³

There are also some concerns regarding **extracurricular education** such as music and sport. For example, public music school classes are taught only in Estonian. In order to enrol, a six or seven year old child must first pass a language test and only then is granted the opportunity to evaluate musical talent. In fact, there are many professors of Russian origin in the school; however they are prohibited from using Russian as the language of instruction with Russian-speaking children, even during individual classes. Similar instances have been reported regarding sport schools.⁴⁴

Discrimination in Education

Case 1:

The students of Tallinn Technical University discovered the English exam results report had not been coded using student ID numbers, but rather with student surnames. Those students with Russian surnames received lower marks than those with Estonian. The professor explained these results by stating that Russian-speaking students are more knowledgeable and therefore the requirements towards them should be higher, whereas the Estonian students are graded against lower standards⁴⁵.

Case 2:

Russian-speaking students studying figure-skating in the most prestigious skating school were not nominated for competitions despite having results that were better than Estonian students. The director argued that this was the case because there was not enough sponsorship. Nonetheless, when sponsorship was found by the parents, nothing changed⁴⁶.

⁴³ According to the data available from the Database of the Legal information Centre for Human Rights, 2006 - 2007.

⁴⁴ Ibid.

⁴⁵ 'Nationalism at the Estonian Universities: myth or reality?', weekly *Vesti nedeli den za dnem*, 09.10.2006.

⁴⁶ LICHR database.

Example of NGO Good Practice

The **Non-Estonians Integration Foundation** is carrying out a long-term project (started in 2003) '**Other-language children in the Estonian School System**' which is run in cooperation with the Ministry of Education and municipalities and is aimed at developing strategies and curricula that would enable new-migrant children and children speaking languages other than Russian or Estonian to enrol in schools and be successful. Within the project specialized trainings for teachers take place and special teaching materials are developed together with curricula. The project also includes project-based financing to schools. Despite that there are not so many new-migrant children yet, through this project some preparation is underway to accommodate them. New-migrant children feel more confident at school and receive education together with their pupils of their own age. The project is very innovative for Estonia as previously the issue itself was not discussed.⁴⁷

4.4 Health

As in previous years, information with regards to discrimination and racism in access to health services is collected neither officially by state bodies nor by the civil society representatives. There is, therefore, a significant gap regarding information detailing the situation of racism and discrimination in the healthcare system.

The healthcare system in principle is available to everyone regardless of ethnicity. However, there are serious problems with respect to language and communication that present barriers to medical care. Medical personnel are not required to understand Russian, nor is there adequate provision of translation services, despite the fact that a large part of the population is Russian-speaking; the majority among them not being proficient in Estonian. This applies particularly in the case of young specialists who do not participate in language training. Furthermore, medical personnel are themselves reluctant to admit there is a problem. It is true that in some cases, medical personnel may have some alternatives at their disposal. Nevertheless, the situation requires stronger consideration as its grave impact on non-Estonian speaking communities is concerning.

⁴⁷ www.meis.ee (The official website of the Foundation).

Discrimination in Healthcare

Case 1:

A seven year old Russian-speaking girl underwent surgery in one of the central hospitals of Estonia. After the surgery the nurse addressed the girl in Estonian but she could not understand her. Then the nurse ordered her mother to translate. The mother could not and the nurse started to scream that it is a shame she cannot and that the woman must speak the language because she works in Estonia, and asked how she got the citizenship if she does not speak the language⁴⁸.

Case 2:

When a Russian-speaking individual went to the emergency unit for a hypertension stroke, the examining doctor addressed her in Estonian. When the doctor realised she could not understand him he addressed her rather coarsely saying that she must speak and understand Estonian because knowing it is an obligation of all citizens⁴⁹.

The chief doctor of the hospital where the incidents took place stated that he does not see any need to require personnel to speak Russian or to facilitate health services in Russian and rejected the fact that that 45% of the population considers Russian to be their mother-tongue (though this data is available from the national census).⁵⁰

4.5 Policing and racial profiling

Despite the fact that racial profiling is becoming a more and more common phenomenon in many countries of Europe, we have no facts to assume that it was taking place in Estonia in 2006. To the best knowledge of the author no official complaints regarding racial profiling were reported to relevant bodies. Indeed, since little attention is paid on an institutional level to racism and discrimination in general, issues such a racial profiling are not debated. There is very little research conducted on the issue of racism in general and no research initiated by the state in particular and therefore, there are no studies regarding racial profiling.

Nonetheless, the experiences of members of minority communities, especially visible minorities, confirm that Estonian society is rather intolerant towards them, including state and municipal officials and the police. In particular, an issue of concern is the stereotype that ethnic non-Estonians are 'collectively responsible' for the majority of crimes and disorders in Estonia. Still, it is the opinion of the

⁴⁸ 'Linguistic inquisition in the hospital', in daily Vesti dnja, 27.07.2006.

⁴⁹ 'It could be a different story', in daily Postimees, 2007.

⁵⁰ North Estonian Regional hospital, written communication 05.2007 nr 2-2/3500.

author, that in 2006 the application of specific methods of racial profiling cannot be conclusively said to have occurred in policing.

4.6 Racist violence and crime

Cases of ethnically or racially motivated crimes are rather rare in Estonia, however a growing tendency towards this can be observed especially with regards to events that have taken place since May 2006. However, it should be noted that the number of officially registered cases is not increasing and has even diminished since amendments to legislation that will be described in the next chapter⁵¹.

During the period between 2000 and 2005, there were 15 investigations started by the Security Police under the *Criminal Code* regarding incitement to racially motivated hatred. Between 2004 and 2005, six cases were initiated by regular police.⁵² Almost all the cases regarded expression of hatred on the internet. During the year 2006 no cases were initiated under articles 151 and 152 of the *Criminal Code* because of the amendments to these articles that entered into force on 1 July 2006. Importantly, several cases that were initiated before the amendments entered into force were closed after 1 July 2006⁵³.

It is important to mention that the media, especially the Russian language media, covers conflicts between Estonian and Russian-speaking groups quite often. For example in July 2006, the media reported about a case when a Russian-speaking man was severely bitten by skinheads⁵⁴. The police started the investigation under the article for punishing hooliganism.

Black people also suffer harassment and physical abuse in Estonia and report that the police or security personnel in private establishments (such as nightclubs) do not take any action to protect them⁵⁵.

In May 2006, a number of incidents near the Tõnismäe monument (the so-called 'Bronze Soldier') in Tallinn provoked heated debates regarding the future of the monument and the interpretation of the results of the Second World War. The Monument is placed at the common grave of the Red Army soldiers who perished in 1944 in Tallinn (mostly in military operations against the German Army; at time now officially regarded as the second Soviet occupation). There are signs on the monument in Estonian and Russian: 'To those who perished in the Second World War'. Annually, on the 9th of May thousands of members of the

⁵¹ See the section 'Racism as a crime' under 'Political and legal context'.

⁵² 2005 data of the Security Police: for January – July. Security Police Board; Written communications no. 6649 of 19 January 2001, no. 5706 of 15 January 2002, and no. 21AT of 12 August 2005; Police Department; Written communication no. PA2-1.11.2/3177 of 18 July 2006.

⁵³ Viru County Court Decision nr. 4 – 06 - 3002.

⁵⁴ 'In Harku one can be beaten up because of ethnic origin', *Vesti nedeli den za dnem* newspaper, 21.08.2006.

⁵⁵ LICHR database.

Russian community place flowers near the monument in memory of those who perished in WWII. For them the statue plays the role of the 'Unknown Soldier' monument. At the same time, for many members of the Estonian community (including high-ranked politicians) it became a 'symbol of Soviet occupation' and therefore shall be replaced.

A number of incidents took place near the monument in May 2006, many of which were initiated by right-wing extremists such as Tiit Madisson⁵⁶. Such incidents could be considered racially motivated. However, the police interpreted them as simple hooliganism or ignored them altogether.

From May 2006 on, the monument was fenced and guarded by police in order to prevent gatherings and protests that might result in racially motivated fighting. Interestingly, a youth group that applied for a public activity (that included bringing flowers to the monument on the November 9th *Kristallnacht* to commemorate holocaust victims and those who fought against fascism) were rejected by police. The police rejected their application on the grounds that:

It is prohibited to organize a public meeting if: it threatens to unleash hatred on the grounds of ethnic background, race, religion and political opinion, or to unleash violence and discrimination among different groups of the society; or threatens the public order or its appropriateness is doubted.⁵⁷

No other actions aimed at preventing racially motivated incidents were undertaken by the police.

Racist violence and crime

Case 1:

Roman Ilin, an Israeli citizen who directs a St. Petersburg theatre, was returning from a rehearsal on the evening of April 6 via an underground tunnel inside Tallin's Viru Trade Centre when he heard the word 'Jew!' shouted at him. Two neo-Nazis threw a beer bottle at him and started chasing him and his friend. They managed to escape and went to a police station to report in the incident. Mr. Ilin was cited criticizing the indifference of the police to their report, a charge that a local police spokeswoman refuted. Police are currently investigating the incident.⁵⁸

4.7 Access to goods and services in the public and private sector

⁵⁶ Remark from the author: Tiit Madisson is a famous politician known for placing a monument to the SS Soldiers in Lihula and publishing a book denying the Holocaust: "The Holocaust – the greatest myth of the XX century".

⁵⁷ Prohibition of the organisation of a public meeting, by the North Police Prefecture, 7.11.2006.

⁵⁸ <http://www.fsmonitor.com/stories/042606Estonia.shtml>.

There exists no official research or data regarding unequal treatment in access to goods and services, which makes it difficult to severity of the situation in this area. Moreover Estonia lacks any detailed legislation that would tackle this issue, which makes it even more complicated to deal with the issue.

During a sociological study in Tallinn, respondents were asked if they had experienced unequal treatment in access to goods and services (separate categories were given). The results identified that 28.8% of non-Estonian respondents had experienced unequal treatment in shops and supermarkets, markets and 9.9% in restaurants, cafeterias and pubs. Among ethnic Estonians this data was 12.3% and 5.8% with regards to from goods and service providers respectively.⁵⁹

Nevertheless, the Chancellor of Justice reported that during 2006 he did not receive any complaints with regards to access to goods and services.⁶⁰

Despite the fact that no cases of unequal treatment were registered during 2006, there is information that such cases do take place in Estonia. Members of the North African community in Estonia have reported being refused service on several occasions in the African Kitchen Restaurant in Tallinn due to the colour of their skin⁶¹. They did not however submit a complaint to any of the bodies mandated to deal with such cases.

4.8 Media, including the internet

During a project in 2005 and 2006 by the Legal Information Centre for Human Rights, media monitoring was carried out in order to study how the Estonian and Russian language media portray the issue of discrimination and racism. The monitoring mainly focused on print and online media, paying special attention to electronic versions of newspapers.⁶²

The media monitoring revealed that Estonian and Russian media tend to focus on different issues. Russian-language media focuses on the issues of discrimination, available legislation and cases, while Estonian-language media addresses the issue of refugees and Estonian-language proficiency among non-Estonians. Estonian language media largely ignored ethnic minorities or migrants as authoritative sources of information and opinion and instead used authorities to speaking about them. In this context, the majority perspective is reinforced by the media's emphasis on the attitudes of the Estonians towards ethnic minorities.

⁵⁹ Klara Hallik, Vadim Poleshchuk, Andrus Saar, Aleksei Semjonov, *Estonia: Interethnic Relations and the Issue of Discrimination in Tallinn*, Tallinn, 2006; ISBN 9985-9542-3-8.

⁶⁰ Legal Chancellor; Written communication no. 5-3/0608588 of 5 January 2007.

⁶¹ Written responses to a questionnaire circulated by the author for the purposes of the present report, 14 June 2007.

⁶² Estonian- and Russian-speaking media in Estonia about European values in *"Media against intolerance and discrimination: Estonian situation and international experience. Selected materials"*, Tallinn, 2006.

In general, ethnic minorities are represented in the media as the 'source of problems'. Even several years ago, it was still common to see the ethnic background of suspects included in news about crimes in both media. Current research does not identify this to be a widely used practice today, although it is not possible to argue that it is completely absent.

While news and current affairs sections do not normally produce material with blatantly racist or discriminatory attitudes, journalists in Estonian-language media often use weighted labels without conducting research or consultations. In some cases the overall language used in media is inappropriate and even offensive. For example, in recent times it is not uncommon to see the word '*tibla*' used in newspaper; a derogatory term for Russians from Estonia, the severity of which is similar to that of the word 'nigger'. An article 'Tibla as negro' appeared in *Eesti Päevaleht* in response to a report by the EUMC in which issues related to non-Estonians had been identified. In the article, the author expressed surprise at the fact that these issues are being considered racism and that they are receiving the attention from EU institutions.

There is a significant difference between print media and online media with respect to the frequency with which stereotypes are cited. The stereotype that 'ethnic minorities are the source of all problems' is manifest very frequently in online media and most often in forums and spaces provided for readers' comments; this is true for both Estonian and Russian language online media. The language of the commentaries in both media is rather strong, often prejudiced and racist. These disturbing instances have been recognised by various organisations on numerous occasions and are beginning to gain recognition by the authorities. So far, no action has been taken to address this though specific measures, including legislation, may be planned.

In its media monitoring of the events related to the 'Bronze Soldier' monument between May and July 2006, the Non-Estonians Integration Foundation concluded that with regards to this particular issue the tone was set by politicians paying little attention to the events themselves and their significance and instead focusing on the debate regarding which actions to take. Explanations of the events were very marginalised and mostly linked to Russia. The Estonian-language media emphasised a secondary issue and therefore shaped a different case. At the same time the Russian-language media stressed the idea that the desire of Estonians to replace the monument manifested their nationalism⁶³. It is possible to say that media coverage deepened the severity of the conflict and fostered it to last longer, finally resulting in civil unrest in April 2007.

⁶³ <http://www.meis.ee/book.php?ID=137>.

Examples of NGO Good Practice

Legal Information Centre for Human Rights carried out a project supported by the EC focused on promoting tolerance and non-discrimination through Media. The project aimed to improve the capacity of journalists to address the issue of discrimination and also to raise awareness among the general public. Media monitoring was carried out as one of the activities within the project.⁶⁴

Youth Union Siin runs a project that aims to educate youth about democracy, equal treatment, human rights, etc. and encourage them to publish articles about the issues in the local media. The project is very innovative for Estonia as it is the first project that works with Russian-speaking youth, helping them to develop critical thinking skills and giving them the opportunity to use these skills to raise awareness through the media.⁶⁵

⁶⁴ More information is available from www.lichr.ee.

⁶⁵ More information is available from www.siin.ee.

5. Political and legal context

Presently Estonia lacks any detailed programme or legislation that would enable efficient protection from racism and discrimination on the grounds of race, ethnicity, religion etc. Despite the fact that authorities recognise this gap, they have not taken action to address it. Indeed, most changes in this area have occurred under the pressure of the European Union and not out of a political desire or will to change.

The first legal developments aimed at fighting discrimination were adopted in the year 2004, prior to Estonia entering the EU. For example, the Chancellor of Justice received its mandate to deal with cases of discrimination and raise awareness about these issues on 1 January 2004. The Gender Equality Act and amendments to the *Labour Contract Act* were adopted in April 2004 and entered into force on 1 May 2004. No major changes have been introduced since then.

The Constitution of the Estonian Republic has a provision that prohibits any kind of unequal treatment stipulated in its Article 12. However it is a detailed article and indeed is not accompanied neither by detailed definitions or remedies. At the end of 2006, after the European Commission highlighted that Estonia still does not comply with the provisions of the Directives 2000/43/EC and 2000/78/EC. In the instance that no measures are taken to remedy this, the case will be transferred to the ECJ. A draft of the *Equal Treatment Act* has been started.

Despite the fact that Estonia participated in the 2001 World Conference Against Racism in Durban, South Africa, no action plan aimed at fighting racism has been adopted or even discussed. Local municipalities have not developed any strategic programme in this area nor are there any special programmes to facilitate integration for migrants. The only measures for minorities and migrants are the State Integration Programme and Strategy for Social Protection and Social Inclusion and certain projects such the New Migrants project for example run by the quasi-official Non-Estonians Integration Foundation.

2006 brought several important developments. First of all, the conflict around the monument on Tõnismäe physically divided the majority of Estonians and non-Estonians on different sides of barricades and deepened other divisions in society. The issue revealed the gaps in the integration process and policy that have long been highlighted by researchers, and were becoming visible in the events taking place on the street. It is important to mention that the conflict started in May 2006, escalated into riots April 2007, and only ended when the government took a silent decision to remove the monument from its place despite opposition by the majority of city residents and despite warnings by researchers.

In October 2006, the Committee on the Elimination of all forms of Racial Discrimination (the CERD Committee) presented its Concluding Observations on

Estonia⁶⁶ in which it highlights the unwillingness of the state to deal with the problem of discrimination.

5.1 Anti discrimination

Political developments

Even despite the fact that not many developments and very little political discourse took place, 2006 was a rather important year in the fight against discrimination in Estonia. As in 2004, the developments that did occur seem to have been prompted by the European Union. First of all, Estonia had to prepare for the 2007 European Year of Equal Opportunities by developing a strategic plan to be implemented, which it finally did at the very end of the year. On a positive note, the coordinator of the year was rather open to dialogue with civil society and to preparing a rather thorough research on the situation regarding discrimination on various grounds in Estonia. Such an approach was very much welcomed by civil society.

Importantly, in 2006 the Ministry of Social Affairs published an analytical paper on *Groups at Risk in the Labour Market: Non-Estonians*.⁶⁷ The paper provides a comprehensive overview of the situation regarding non-Estonians in the labour market. Despite the fact that it does not include any new data as it is based on previous studies, it is important in that it demonstrates that the issues are receiving some political attention. Also in 2006, for the first time the Labour Inspectorate began gathering statistics on complaints of discrimination. During the reporting period a total number of 7 complaints were filed with this body, however none regarded unequal treatment on the grounds of race, ethnicity or religion⁶⁸.

Unfortunately, no changes were made to the limited mandate of the local Equality Body, the Chancellor of Justice, which remains limited to the conciliation procedure which has not proven effective in addressing cases of discrimination. Regretfully, the Chancellor of Justice stated that the mandate should not focus solely on the promotion of equal treatment as this is a very vulnerable issue and might undermine their independence.⁶⁹ In this context, it is important to note that according to *Chancellor of Justice Act* the institution is obliged to promote equal treatment.⁷⁰

No awareness-raising activities were carried out by authorities or State institutions during the reporting period, though it is possible that some authorities participated in events organised by NGOs in an official capacity.

⁶⁶ CERD Committee Concluding Observations on Estonia, 2006, CERD/C/EST/CO/7 19 October 2006.

⁶⁷ EV Sotsiaalministeerium (2006) Tööturu riskirühmad: mitte-eestlased, Teemaleht, Sotsiaalministeeriumi toimetised nr 3/2006.

⁶⁸ Labour Inspectorate; Written communication of 9 January 2007.

⁶⁹ Legal Chancellor; Written communication no. 5-3/0608588 of 5 January 2007.

⁷⁰ Oiguskantsleri seadus, RT I, 1999, 29, 406, article 35 /16 chapter 5.

It should be once again mentioned that the Supreme Court of Estonia did not have a chance to interpret the equal treatment provisions that are guaranteed by the labour Contract Act. The Chancellor of Justice and Labour Dispute Commission also reported that during the year 2006, they received no complaints regarding discrimination on the grounds of ethnic background or race.⁷¹

Very importantly, in 2006 Amnesty International published its research on discrimination in the Estonian labour market titled '*Estonia: Linguistic minorities in Estonia: Discrimination must end*'. The report was presented in Tallinn at the end of the year. In the report, Amnesty 'urges the Estonian authorities to consider pragmatic and solution-oriented approaches towards language policies in the private sector and recommends making all Estonian language classes reimbursable, including those taken to improve Estonian language proficiency for better employment prospects'.⁷² The organisation also refers to the lack of effective remedies for discrimination in the workplace in Estonia.⁷³ High ranked authorities harshly questioned the correctness of the research and were reflecting rather negatively towards the organisation and their recommendations.

The CERD Committee Concluding Observations are of great significance to the the political developments in Estonia. The Committee approved efforts by the to State to socially integrate ethnic minorities through the development of a new Integration Programme 2008 – 2013, as well as attempts made to combat hate speech on the internet. The Committee, however, also raised a number of serious concerns. It highlighted the importance of the creation of a human rights institution and adoption of comprehensive anti-discrimination legislation, as well as the need to call attention to the issue of housing, healthcare and social security. The Committee also expressed concerns regarding the limited rights afforded to the high number of non-citizens in Estonia. Finally, the Committee highlighted that the absence of cases can not serve as evidence of the absence of problems but rather as an indication of the unwillingness of the state deal with problems⁷⁴.

Legal developments

The most important development of the year was *the Equal Treatment Act* draft which was sent to the Parliament in January 2007. The main aim of the draft, as outlined in the Explanation Note to the draft, was to finally implement provisions of EU Equality Directives 2000/43/EC and 2000/78/EC and in this way bring the Estonian legislation in conformity with EU requirements⁷⁵. The draft introduces the concept of equal treatment on various grounds, except gender and nationality (citizenship), in all spheres of public life⁷⁶. The Ministry of Justice involved civil

⁷¹ Labour Inspectorate, written communication from 09.01.2007.

⁷² Amnesty International (2006) *Estonia: Linguistic minorities in Estonia: Discrimination must end*, EUR 51/002/2006, 7 December 2006, section 4.4.2.

⁷³ Amnesty International (2006) *Estonia: Linguistic minorities in Estonia: Discrimination must end*, EUR 51/002/2006, 7 December 2006, section 4.4.5.

⁷⁴ CERD Committee Concluding Observations on Estonia, 2006, CERD/C/EST/CO/7, 19 October 2006.

⁷⁵ Võrdse kohtlemise seaduse eelnõu seletuskiri.

⁷⁶ Võrdse kohtlemise seaduse eelnõu.

society in the consultation process regarding the draft and positively followed many of their recommendations. The media was also active in covering the issue. The Act is expected to be adopted by the end of 2007.

Currently enforced legislation fails to satisfy the provisions of the EU Equality Directives in several aspects; the draft act endeavours to significantly improve the situation. For example, in current legislation there are no provisions that would protect from unequal treatment in access to goods and services, the concept of victimisation is absent, and the definition of harassment is rather narrow in scope as it applies only in cases of hierarchical relations at work. Estonian civil society hopes the draft of the *Equal Treatment Act*, if passed, will effectively address these gaps.

The NGO assessment

There are very few NGOs involved in anti-racist actions in Estonia as the issue is rather *non-grata* and there are practically no local funds available for this work. The existing NGOs, however, do their important job well and as a general rule are open to any kind of cooperation and collaboration with authorities including sharing their expertise. For example, during 2006, NGOs actively participated in the consultation process regarding the draft of the *Equal Treatment Act*. The majority of the comments by NGOs were accepted and taken into the draft.

Significantly, NGOs conduct studies and monitoring that provide an important research base regarding the situation on the ground which is essential in developing mechanisms for improvement. At the same time, NGOs serve to pressure the authorities to participate in the discussion of key issues and get involved in changing existing legislation as well as public attitudes.

The LICHR in particular has organised trainings for journalists aimed at improving their knowledge of discrimination issues, EU legislation and Estonian studies and cases. Such training will hopefully serve to improve the awareness-raising process. Also, the Estonian Human Rights Institute with support of the Matra Kap programme has undertaken activities aimed at questioning discrimination in the workplace.⁷⁷

5.2 Migration and integration

Political developments

Estonia does not have a definition as such of 'migrant'; Estonian officials consider such a definition to be unnecessary. Estonian legislation does define the concepts of 'third-country national' and 'alien', and does not make any

⁷⁷ www.eihr.ee.

distinction with regards to reasons for which third-country nationals enter Estonia. The only significant distinction in Estonian legislation is whether the individual has entered legally and has legal grounds to stay, regardless of the reasons for entry.⁷⁸ In general, persons residing in Estonia on a legal basis can exercise the same rights as the Estonian nationals in the access to housing, health care, social care, education, etc., though sometimes with certain conditions.

There is no special programme aimed at migrants, including new-migrants and refugees, with the exception of the 'New Migrants' project implemented by a quasi-official body in conjunction with the Ministry of Education. This project aims to improve schooling possibilities for the young migrants and refugees. No developments or discussions in the area of special programmes aimed at migrants were initiated in 2006.

While Estonia does have a State Integration Programme 2000 – 2007, the programme does not address in any detail the discrimination faced by ethnic or national minorities. Most of the funds allocated for the implementation of the programme aim to support Estonian language proficiency training. The implementation of the programme is based on valid legislation and is also dependent on existing linguistic and naturalization policies⁷⁹. A considerable portion of the funds spent is from foreign aid with the second portion allocated from the national budget.

The current Integration Programme has been widely criticized by social scientists and international organizations for failing to manage integration as a two-way process. For the moment the State considers integration to be directed towards non-Estonians, considering them to be the main group who should integrate, rather than addressing integration as a process requiring equal participation by both majority and minority populations. Therefore it is doubtful if the process in question is integration or assimilation⁸⁰.

During 2006, a special group of social scientists and specialists worked on the new Integration Programme 2008 – 2013, towards enabling the sustainability of the integration process as it has already been initiated. While the previous programme focused mainly on language training, the new programme, having taken into consideration previous mistakes, focuses on improving the employment situation and economical stability of the minority populations.

Also worth noting is the fact that Estonian legislation recognizes only official marriages, even despite the fact that the majority of couples in Estonia prefer not to legalize their relations. Discussion on the issue during the past 2 years has focused on the failure of the draft of the new *Family Law* to include cohabitation as an officially recognised form of family. This reality is one that risks seriously

⁷⁸ Vastus teabenoudele, Siseministeerium on 11.01.07 nr 11-2-1/13483, Valisministeerium on 15.01.2007nr 8.3/563.

⁷⁹ Estonian Minority Population and Non-discrimination, Report 2006, By V. Poleshchuk, LICHR, Tallinn, p. 19.

⁸⁰ Assimilation instead of integration is also mentioned in the EC Second Annual Report on Migration and Integration p. 8, Brussels, 30.06.2006 SEC(2006) 892.

undermining the family reunification process as well as violating the rights of those migrants and asylum seekers who prefer to cohabit with their partners as in this case they are not considered to be a family and can not settle together.

As mentioned above, the integration process is tightly bound by naturalization and citizenship policies. These policies are considered key in addressing ethnic problems in Estonia. Taking into consideration the high number of stateless persons residing in Estonia and that various international bodies have on numerous occasions expressed concern in this regard, Estonia is undertaking active steps towards improvement. Starting from 2004 those persons who undergo language training aiming to apply for citizenship (the language test obligatory) are eligible for reimbursement of training expenses up to a certain amount, however only after they have passed the language test. It is important that such opportunities exist, however many people cannot afford language training in the first place and therefore cannot participate in this opportunity.⁸¹

Language knowledge is a core problem for minorities residing in Estonia. Estonian is the only state language despite a large linguistic minority residing in Estonia. Language proficiency is required for those who work in the public domain; in some cases this is an ungrounded requirement. No obligation exists on the part of public servants to speak any other language. Language usage is supervised by a special body, the Language Inspectorate, established in order to inflict penalties for those not using the official language in the public domain or for those who lack proficiency in Estonian.⁸² The existing language policies seriously impact the capacity for migrants in Estonia to find employment. Moreover, these policies apply not only to employment but also restrict limit access to goods and services, the healthcare system and communication.

Despite the fact that the existing linguistic policy was at the forefront of discussions as being a key problem, discourse on the topic in 2006 focused on new action towards protection of the Estonian language including measures to be introduced in the constitution. As a result, the mandate of the Language Inspectorate was broadened with the main aim to protect the Estonian language. Estonian civil society is concerned that the implementation of these new policies will result in language requirements that are even more severe and detrimental to migrant and minority populations.

Presently, there is very little discussion or effort to take into consideration the EU Common Basic Principles on Integration (CBPs). Estonia does not have many migrants and officials are not very eager to have them. Therefore steps towards the creation of better conditions for migrants are taken rather reluctantly.

⁸¹ Communication with representatives of minority community residing in Estonia.

⁸² In *The Rights of Migrant Workers in EU*, Shadow Report on Estonia, by Julia Kovalenko, EPMWR, Brussels 2007.

Legal developments

Amendments⁸³ to the *Law on Aliens*⁸⁴ that occurred in Estonia in April 2006 resulted in the transposition of the Directive 2003/109/EC⁸⁵. All persons who possessed permanent residence permits were automatically recognised as long-term residents⁸⁶. According to the law all those, with certain exceptions, who wish to receive long-term resident status and did not previously possess permanent residence permits, must pass the Estonian-language test for the elementary level⁸⁷. The Estonian language proficiency test should be considered as the integration criteria. This language criterion came into effect on 1 July 2007. There was therefore a window for those who permanently resided in Estonia, but do not have a permanent residence permit due to number of reason.

A more negative development introduced by this law is the increase in the number of years before which a person is eligible for a permanent residence permit. While previously a person had to reside on the territory of Estonia for three years only⁸⁸, after 1 July 1, 2006, this period was extended to five years⁸⁹.

For the moment, it is difficult to anticipate how effective and what changes will be brought about by these amendments, as there has been no case-law on the issue as of yet. Nonetheless, it is possible to infer that about 26,000 of permanent residents holding temporary residence permits⁹⁰, mainly former military servants of the Soviet army and their spouses who until now according to Estonian legislation were not entitled to permanent residence permits, will be able to receive a more stable status because of the legislation.

Another legal development in 2006 was the *Act on Granting International Protection to Aliens*⁹¹ which entered into force on 1 of July 2006⁹² and was adopted together with the *Governmental regulation Nr. 162* of 14 July 2006, which outlines the rules and procedures of applying for refugee status by the applicant and family members.

The new act amends the *Refugee Act* that was in force since 1997 and was brought about by the need to comply with the requirements of EU asylum law. Unlike the previous act, the new one includes a number of definitions such as: 'alien', 'third country national', 'asylum seeker', 'refugee', 'refugee status' etc., therein solving a key problem. Before the adoption of the new act, there were situations in which applicants who had been refused asylum lost all status and were therefore deprived of rights and benefits prescribed by the *Refugee Act* (the right to accommodation, first aid and medical examination, the right to food and

⁸³ RT I 2006, 21, 159, (15.05.2006).

⁸⁴ Estonia, RT I 1993, 44, 637; RT I 1999, 50, 548, (07.06.1999); RT I 2004, 58, 410, (22.07.2004).

⁸⁵ Concerning the status of third country nationals who are long-term residents.

⁸⁶ RT I 1993, 44, 637; RT I 1999, 50, 548, (07.06.1999); RT I 2004, 58, 410, (22.07.2004), Art 23/7 (1).

⁸⁷ RT I 1993, 44, 637; RT I 1999, 50, 548, (07.06.1999); RT I 2004, 58, 410, (22.07.2004), Art. 14/5.

⁸⁸ Article 12 (3) of the law, version valid until 1.07.2006.

⁸⁹ Article 14/4 (1).

⁹⁰ Citizenship and Migration Board annual book 2006.

⁹¹ Valismaalaste rahvusvahelise kaitse andmise seadus, RT I 2006, 2,3.

⁹² Adopted on 14.1.2005.

essential clothing, etc.). This made the appeal process very difficult, if not impossible for some. Rejected applicants were therefore forced to survive on the mercy of the authorities from the reception centre and on help from their relatives or from people they know⁹³.

Indeed there are many provisions in this act that still have to be improved,. However even this development should be considered a very positive trend that might improve the situation.

The NGO Assessment

NGOs play an important part in policy development in the area of migration and integration. They are taking an active role in the development of the new Integration Programme 2008 – 2013, and providing studies and analysis of the results of the Integration Programme 2000 – 2007, even though at times their contributions are not fully taken into consideration by the authorities.

In 2006, the quasi-official organisation Non-Estonians Integration Foundation launched a very important project towards facilitating integration (the preliminary phase of the project was started earlier). The project developed a specific programme and offers free of charge trainings for those who wish to apply for the citizenship and would like to undergo a course of Civics in order to prepare for the Civics exam, which is a part of the requirement for naturalisation process. The Non-Estonians Integration Foundation is also carrying out a project aimed at new migrants and especially children to facilitate their integration in schools.

5.3 Criminal justice

5.3.1 Racism as a crime

Political developments

In this area, few developments took place in 2006, though those that did take place were quite serious. Significant attention was paid to the issue of the so-called 'Bronze soldier' monument commemorating those who died fighting against fascism. Debate on this issue focused on what the monument symbolises for different sections of the population (Estonian and Russian) and for the Estonian State, what is more important and whether or not to replace the monument. The issue and debate brought about major public disagreement and division. The predominant position taken into consideration by the authorities was the personal opinion of the Prime Minister as well as the pre-election fever of certain political parties.

⁹³ A. Arjupin, 'The Practice of Estonia on Reception of Asylum Seekers in Light of the EU Asylum Law, (Intentional University Audentes, LLM, Tallinn, 2006).

Estonian society could not stay silent and the case itself spurred significant verbal debate as well as physical conflicts between nationalists and non-Estonians. As the conflicts began the authorities decided to take action against and prohibited any gatherings around the monument, even considering any event around the monument to be incitement to public hatred.

Data collection regarding hate-motivated crime is performed by the police, however it reflects only those cases that were investigated. There are reasons to assume, however, that not all cases are being reported and even not all cases regarding the relevant articles are investigated. In 2006, the police did not investigate any cases that would fall under the scope of the articles 151 – 155 of the *Criminal Code*.⁹⁴

In autumn 2006, a discussion arose concerning whether Estonia should criminalise holocaust denial and punishment such acts by imprisonment.⁹⁵ It was later agreed that holocaust denial would not be criminalised in Estonia.

No high scale national debate took place in Estonia with regards to the EU Framework Decision on Racism and Xenophobia. The media also reported neither on the Decision itself, nor on Estonian public opinion with regards to it. The State decided to link the Stalinists crimes with the Framework Decision and have been working in this direction.⁹⁶

Legal developments

Amendments to the *Criminal Code* were adopted and entered into force in 2006. While such amendments constitute an extremely important step undertaken by the State, some rather negative elements remain of key concern among civil society.

In 2006, Article 151 of the *Criminal Code* was amended resulting in the criminalisation of only those acts of incitement which have endangered the life, health or property of a person. In other words, the scope of application of the amended article was narrowed. Until the amendment, this article was used by the police to prosecute those inciting hatred, violence and insult on the basis of ethnic or race origin, such as for example, in cases of hate speech in public and on the internet. The explanation note to the Act amending the *Criminal Code* states that this amendment aims to stop the prosecution of those persons, who simply express their position or opinion⁹⁷.

On a positive note, the amendments also enable punishment of legal entities for the same crime.

The following table details data received from the Estonian Police Board:

⁹⁴ Police Board; Written communication no. PA_2.1-20.2/5648 of 12 January 2007.

⁹⁵ <http://www.delfi.ee>, 23 October 2006.

⁹⁶ The Commission of the Parliament dealing with EU related issues, written communication, 12.03.2007.

⁹⁷ See explanatory note attached to the Draft no. 913 SE (10th *Riigikogu*); available at <http://www.riigikogu.ee>, (01.10.2006)

Registered reports of a criminal offence and criminal proceedings (investigations) commenced by the Estonian Police Board*, Articles 151-152 of the Penal Code, 2005 –2006⁹⁸		
	2005	2006
Article 151 Incitement to social hatred	8/5	0/0
Article 152 Violation of equality	1/0	0/0

During the same time, the Security Police (special service) reported initiating two cases in 2005 and one investigation in 2006 on the basis of Article 151 (2), i.e. within the limits of their competence.⁹⁹ In the second half 2006, some cases initiated before the amendments entered into force were ceased as there were no longer legal provision and grounds on which to continue investigations.¹⁰⁰

that the fact that after the amendments no criminal investigations were started under articles 151 – 152 of *Penal Code* suggests that dealing with incitement to hatred on the basis of ethnic or racial origin will be rather difficult, if not impossible, in instances where no material damage is identifiable.

The NGO assessment

Again certain NGOs took the position to actively question the acceptability and validity of such legal developments and their correspondence to international requirements and policies. A request for monitoring was sent to the Chancellor of Justice and aimed at motivating this body to consider if such amendments were legal and in correspondence with certain international acts and strategies.

5.3.2 Counter-terrorism

There were no major developments with regards to counter-terrorism in Estonia in 2006. Main provisions with regards to terrorism can be found in several articles of the *Penal Code*.¹⁰¹

On 17 August 2006, the Estonian Government adopted the document *Fundamentals of Counter-terrorism in Estonia* which aims to specify what the State endeavours to achieve with its counter-terrorism strategy and also how it views its own role in the fight against terrorism on the national and international

⁹⁸ Police Board; Written communications no. PA2-1.11.2/3177 of 18 July 2006 and no. PA_2.1-20.2/5648 of 12 January 2007.

⁹⁹ Security Police Board; Written communications no. 2041 of 28 July 2006 and no. 31AT of 5 January 2007.

¹⁰⁰ Decision of the Viru County Court, Nr. 4-06.3002.

¹⁰¹ Criminal code, RT I 2001, 61, 364, RT I 2002, 86, 504.

level. The document highlights that Estonia is paying attention to political violence and notes that terrorism can be identified in acts aimed at influencing public opinion. It also mentions revisions to migration policies making them stricter. The document is, however, still rather vague and requires adoption of clarifying mechanisms.¹⁰²

Presently, the State does not officially view any particular country or group as posing a threat to Estonia and has repeatedly argued that Estonia is not a targeted country for terrorists. Still, more and more of high rank politicians and authorities label the Russian Federation as being unfriendly and threatening to Estonian security. Special attention is also paid to Muslims residing in Estonia and various Muslim organisations that try to launch branches in Estonia.

At the same time the Security Police label the activities of human rights NGOs dealing with racism and the protection of the non-Estonian population as acting against the Estonian Constitution.¹⁰³ Thus LICHR has on numerous occasions been labelled as an organisation threatening the constitutional order of Estonia by protecting the rights of Russian-speakers in Estonia, being led by Russia and by submitting reports aimed at discrediting Estonia in the international arena.¹⁰⁴

5.3.3 Racial profiling

Racial profiling was not an issue of discourse in 2006, nor were there any political or legal developments in this area. For the moment Estonia does not have any programme or legal act that would enable or support racial profiling. However it is possible that such developments may take place later in 2007 or after the Counter-terrorism programme is adopted.

5.4 Social inclusion

Political developments

Estonia has a National Strategy for Social Protection and Social Inclusion 2006 – 2008 and has published a report related to the Strategy. National minorities are mentioned separately in the Strategy as they belong to one of the risk groups vulnerable to social exclusion and therefore require specific attention. The State attempts to strengthen the integration of national minorities through various fields of policy. The first State Integration Programme 2000 – 2007 emphasised measures on language training and education. The new Integration programme 2008 – 2013 was prepared in 2006 and focuses more attention on the socio-

¹⁰² Fundamentals of the counter-terrorism in Estonia, adopted on 17 August 2006.

¹⁰³ Security Police Annual report 2005 and 2006.

¹⁰⁴ Security Police report 2005.

economic integration and reducing unemployment among national minorities. Close attention is also being paid to HIV/AIDS prevention.

Measures are mainly focused on the Ida-Viru County, including, among other things, increasing the proportion of people in that region who read, write and speak Estonian. In other regions, measures include job rotation programmes and awareness-raising on cultural differences and tolerance targeting in particular young people¹⁰⁵. Other specific strategies to address migrant workers are planned, however for the moment these measures have yet to even be drafted.

Legal developments

No major *legal developments* in the area of social inclusion took place in 2006.

The NGO assessment

In 2006, one of the leading Estonian NGOs, the Social Initiative Centre for Integration, continued activities aimed at people with disabilities. Its new project supported by the European Social Fund may be regarded as an innovative example of measures which may help to fight multiple discrimination faced by persons of minority origin with disabilities as well as facilitate their integration into the labour market. The project '*Application of systemic methods for employment of non-Estonians with hearing disabilities*' is of great importance because Estonia does not have an institutionalised system of professional education for disabled persons without Estonian language proficiency (normally Russian-speakers) and this situation may be improved through special initiatives only. The project foresees rehabilitation, professional education (personal services, bakery, construction work and renovations, etc) alongside necessary general education training (Estonian language, PC, etc), in-service training and assistance in employment for 70 persons with hearing disabilities from Russian-speaking families. It is one of the first attempts to provide this category of the population with officially recognised professional qualifications¹⁰⁶.

¹⁰⁵ National Report on Strategies for Social Protection and Social Inclusion 2006 – 2008, Ministry of Social Affairs, 2006.

¹⁰⁶ Information provided by S. Koroljova, the head of the Social Initiative Centre for Integration.

6. National recommendations

In the context of the situation of racism and discrimination in Estonia as outlined in this report, the following recommendations are presented to the Estonian Government and other key actors:

6.1 General

- Carry out detailed research of the situation of ethnic minorities in various spheres of life;
- Organise visible and large scale awareness-raising campaigns aimed at introducing anti-discrimination measures and protection mechanisms;
- Encourage media to play an active role in awareness-raising and reporting on cases of racism and discrimination - Journalists should be more careful in shaping public opinion through their publications and providing accurate research on the issue;
- Create a system of discrimination-related data collection covering all aspects of life;
- Define the term 'family' and include cohabitation as a recognised form of family.

6.2 Anti discrimination

- Adopt detailed anti-discrimination legislation that would correspond to the requirements of the EU and take into consideration recommendations made to Estonia by various international bodies;
- Study practices of the Legal Chancellor's Office to identify the reasons for low interest (especially of minority members) towards available mechanisms of protection from racism (including conciliation procedures, remedies, compensations for victims of racism etc);
- Implement official positive action measures to promote the full participation of ethnic non-Estonians in all spheres of employment and education;
- Establish an Institution of the Commissioner on Equal Treatment mandated to receive complaints from the public and guarantee legislation and policies to observe the principle of non-discrimination and mainstreaming;
- Adopt an anti-racist programme based on the Durban document.

6.3 Migration and integration

- Incorporate non-discrimination into the new Integration programme and monitor regularly official ethnic and integration policies from the equality perspective;
- Monitor official linguistic policies in order to protect minorities from unfounded and disproportionate control over use of languages at work, in public places, and in contact with public administration.

- Render naturalization of non-citizens as simple as possible and possibly exclude language exams from requirements;
- Adopt special programmes aimed at refugees and new-migrants, incorporating the EU Common Basic Principles on Integration.

6.4 Criminal justice

6.4.1 Racism as a crime

- Create a comprehensive system of monitoring and investigation of ethnically and racially motivated crimes, backed by specialised training of police officers on a permanent basis;
- Comprehensive protection against all types of incitement to ethnic or racial hatred (and particularly against public hate speech) should be restored in criminal law and special attention should be paid to potentially dangerous right-wing radical groups;
- Amend legislation in order to provide a possibility to tackle hate speech, insult and other abuses even if they only cause moral and not material damage.

6.4.2 Counter terrorism

- End the labelling, without proper evidence, of organisations, persons, and even states, as a threat as well as attempts to discredit them on national and intentional levels;
- Cease harassment of NGOs for their activities aimed at providing support and legal aid to the ethnic minority population and stop considering their activities to be a threat to the independence of the state.

6.5 Social inclusion

- Implement the Social Protection and Social Inclusion Strategy to its full, paying special attention to ethnic minorities and those belonging to the risk groups vulnerable to other forms of discrimination, for example people with disabilities, women etc.;
- Implement awareness-raising campaigns in order to inform these groups of people about the possibilities created for them by the state in the language understood by them (presumably Russian);
- Pay special attention to the training and retraining of the unemployed, especially the long-term unemployed in all the counties of the state, especially for those professions that are requested on the labour market;
- Pay special attention to the issue of HIV/AIDS and drug addiction among Non-Estonians;
- Take active steps to prevent human trafficking especially as it affects women belonging to ethnic minorities from certain areas;
- Encourage the creation of employment opportunities for ethnic minorities.

7. Conclusion

As outlined in the present report, Estonia is still not taking enough active measures to combat racism and ethnic discrimination. The country lacks understanding of the issue and detailed research of the situation as well as cases; the latter resulting from low awareness which prevents victims from seeking remedies and an unwillingness on the part of the state to engage in the issue and accept that racism is an issue in Estonia.

However, 2006 can be considered an important year for Estonia that brought several significant developments. The most significant among these was the drafting of the *Equal Treatment Act* regulating measures against unequal treatment (in all spheres of life except for private life) and introducing remedies. Adoption of this act brings Estonia closer to the full transposition of the EU Equality Directives and fulfilment of several recommendations of the CERD Committee. Important still is the full and effective implementation of the provisions of the act.

Another important development which took place in 2006 was the preparation of new State Integration Programme 2008 - 2013 which will be implemented after the end of the 2000-2007 programme. The new programme will focus not just on linguistic integration (proven by many social scientists to not be an effective approach alone, leading to assimilation rather than integration) but more on the socio-economical aspects of integration.

It is important, however, to mention several negative developments that took place during the same period. Amendments to the *Criminal Code* that made it almost impossible to seek remedy in cases of incitement to hatred unless material damage is caused seem to serve those who consider it normal to verbally abuse and incite hatred. The highly politicised issue of 'Bronze Soldier' developed into interethnic conflict and, as already known from 2007, brought riots and confrontation between two communities revealing gaps in the integration process.

Despite the fact that civil society and NGOs dealing with the issue of racism are limited in number, receive very limited funding, and are under permanent threat of sanctions from the State, their activities and influence cannot be omitted. NGOs serve as one of the main sources of information regarding cases of racism and importantly, bring cases of strategic litigation to courts. Moreover, most of the awareness-raising campaigns aimed at various target groups are run predominantly by civil society.

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9. Annex 1: List of abbreviations and terminology

AI	Amnesty International
CBP	Common Basic Principles on Integration
CERD	Committee on the elimination of racial discrimination
ECJ	European Court of Justice
LICHR	Legal Information Centre for Human Rights



european network against racism

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