



Legal Information Centre for Human Rights

Minority Rights in Estonia

Report

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PART I.

GENERAL ASPECTS OF MINORITY POLICIES

1.1. Basic Statistics

1.1.1. Ethnic Composition of the Population

Estonia became a part of the Russian Empire in the early 18th century. It gained independence following the October 1917 Revolution in Russia. Russia's Bolshevik government recognised the independence of Estonia in 1920. In 1940 Estonia was incorporated into the USSR. Estonian independence was restored in 1991.

Minority Population Dynamics

According to the 1897 census conducted across the Russian Empire, ethnic Estonians made up 90.6% of the population of the region.¹ The largest minorities were Russians (4% or 4.7% including the population of Narva), and Baltic Germans (3.5%). The Russian population was predominantly urban, comprising 14% of the urban population of the region (43.5% in Narva). Russian peasants resided only in the districts near Narva and the Lake Peipus. The largest minorities were overrepresented among white-collar workers (Russians – 19%, Germans – 24%).²

According to the 1934 census, ethnic Estonians made up 88.1% of the country's population. Ethnic Russians were the largest minority group (8.2%) and two fifths of them inhabited territories currently belonging to the Russian Federation.³ The two other largest minorities were Germans and Swedes who left Estonia in large numbers shortly before and during World War II.

Generally the war resulted in a major population decrease (some of the reasons being repressions and mass emigration). A massive influx of ethnic non-Estonians into the republic began in the 1950s as the country industrialised.

Table 1.

Demographic trends in Estonia in the 20th century, census data, % *

Census	Ethnic Estonians	Other ethnic groups	
		Total	Russians
1922	87.62	12.38	8.23
1934	88.11	11.75	8.23
1959	74.59	25.41	20.07
1970	68.22	31.78	24.68
1979	64.72	35.27	27.91
1989	61.53	38.47	30.33
2000	67.90	32.10	25.63

Source: Statistics Estonia.⁴

Note: * – data corresponds to the territory of Estonia at the time of the census

According to the 1989 census, the largest non-Estonian ethnic groups were Russians (30.3%), Ukrainians (3.1%), Belarusians (3.1%), and Finns (1.1%). Ethnic non-Estonians accounted for 38.5% of the republic's population in 1989.⁵ The 2000 census showed that the minority part of the republic's population had decreased to 32.1%. In 2000 25.6% of the population were ethnic Russians, 2.1% Ukrainians, 1.3% Belarusians, and 0.9% Finns.⁶ The trend is normally attributed to migration and higher mortality levels among minorities.

According to the data of the official statistics, as of January 1, 2008, the population of Estonia was 1,340,935, of which 920,885 of them are ethnic Estonians (68.7%), 343,568 Russians (25.6%), 28,003 Ukrainians (2.1%), 15,925 Belarusians (1.2%), 10,890 Finns (0.8%), 2,473 Tatars (0.2%), 2,211 Latvians (0.2%), 2,056 Poles (0.2%), 1,870 Jews (0.1%), 2,070 Lithuanians (0.2%), 1,910 Germans (0.1%), and 9,074 others (0.6%).⁷ (Following Soviet practice, Jews are regarded as an ethnic group in Estonia although no ethnicity is displayed on passports or ID cards.)

Languages

The 2000 census showed that Estonian was identified as the native (first) language by 67% of the population and Russian by 30% (62% and 35% in 1989). Some 98% of ethnic Estonians and the same percentage of ethnic Russians said that the language of their ethnic group ('national language')

was also their native language (99% in 1989). Among other ethnic groups numbering over 500 people, only Roma were found to have an excellent command of their ‘national’ language (97%). The lowest percentage of people fluent in their ‘national’ language (in this case, Hebrew) was found among Jews (6%).⁸

The term ‘Russian-speakers’, however indefinite, largely reflects the actual situation among non-Russian minorities in Estonia. Finns are the only large ethnic minority in Estonia in which a relatively high percentage of individuals belonging to it regard Estonian as their native language. Russian is spoken as a native language in Estonia by 57% of ethnic Ukrainians, 70% of Belarusians, and 30% of Finns. Generally, in most large non-Estonian ethnic groups in the republic, the native language is either the respective ‘national’ language or Russian. Compared to 1989 the percentage of people for whom their ‘national’ language is also the native one has remained roughly the same.⁹

The 2008 Integration Monitoring showed that 15% of ethnic non-Estonians believed they had full command of Estonian. Active knowledge of Estonian was reported by 17% of respondents. Passive knowledge of Estonian (described by responses such as “I understand it and speak it a little”, and “I understand it a little but can’t speak it”) was reported by 24% and 25% of respondents. 19% of respondents said they did not know Estonian at all.¹⁰

1.1.2. The Problem of Statelessness

On November 6, 1991 the Supreme Soviet of Estonia decided that citizenship would be extended only to the citizens of the pre-World War II Estonia and their descendants.¹¹ The final resolution followed in 1992 with the re-enactment of the 1938 Citizenship Act. The version of the Citizenship Act which was in effect in the period 1992 – 1995 was based on the 1938 text.

Thus, unlike other post-Soviet republics, Estonia (and Latvia) rejected the so-called zero-option which implied that all (or almost all) permanent residents were entitled to citizenship.

According to official estimates, in 1992 32% of Estonia’s population were ‘individuals with undefined citizenship’,¹² which is a euphemism officially used to describe currently stateless former citizens of the USSR.

According to the 2000 census, the population of Estonia comprised

four major groups: Estonian citizens (around 80%), Russian citizens (6.3%), citizens of other countries (0.7%), and individuals with ‘undefined citizenship’ (12.4%).¹³ In the 1990s, large numbers of ethnic non-Estonians inhabiting Estonia chose to acquire Russian citizenship and thus avoided being stateless.

By 2006, the percentage of stateless people in Estonia fell to 8%.¹⁴ The estimate for 2008 was roughly the same. The decrease in the percentage of stateless people in the population of Estonia was due to migration, naturalisation in Estonia, natural causes, and adoption of the Russian citizenship.

The status of people with ‘undefined citizenship’ is the same as the status of the citizens of Russia and other countries. Under certain conditions, access to Estonian citizenship is somewhat simplified for stateless children under 15 years of age (see Section 1.2.4.a below).

1.1.3. Major Religious Groups

According to the 2000 census, minorities in Estonia were generally more religious than the ethnic majority (Table 2). While only 26% of ethnic Estonians belonged to any confession, predominantly Lutheran, 42% of Russians in the country were religious, mostly Christian Orthodox.

On the whole, 14.8% of Estonia’s population aged 15 and over were Lutheran and 13.9% Orthodox. Altogether these two groups comprise the majority of religious people in Estonia. The Muslim community is very small.¹⁵

Table 2.
Attitude to religion among the population aged 15 and up according to the 2000 census, %

Attitude to Religion	Total	Ethnic Estonians	Ethnic Russians	Others
Follower of a particular faith	31.8	26.3	42.0	46.6
Had no religious affiliation	37.0	41.3	28.8	26.9
Atheist	6.7	5.9	8.5	6.6
Could not define the affiliation	15.8	16.6	14.5	13.5
Refused to reply	8.7	9.9	6.2	6.4
Total	100.0	100.0	100.0	100.0

Source: *Statistics Estonia*¹⁶

1.1.4. Refugees

Estonia has had a well-developed legislation on refugees since 1997. 10 out of 133 applicants had been granted refugee status by October 2008. Most of the applicants were from Iraq, Russia, and Turkey. Refugee status was granted for the first time in 2000.¹⁷

Table 3.

Decisions to grant refugee status or subsidiary protection¹⁸

	Refugee status	Subsidiary protection
2000	4	4
2001	0	4
2002	0	1
2003	0	0
2004	0	0
2005	0	1
2006	0	0
2007	2	2
2008	4	0
Total	10	12

Source: Citizenship and Migration Board¹⁹

1.2. Basic Ethnic Policies

1.2.1. Recognition of National Minorities

In Estonia only the 1993 National Minorities Cultural Autonomy Act deals specifically with the rights of minorities. According to this law, only citizens of Estonia are regarded as individuals belonging to national minorities. In 1996, a declaration containing the same statement accompanied the ratification of the Framework Convention for the Protection of National Minorities. Currently the definitions of a national minority in the Cultural Autonomy Act (Article 1) and the Framework Convention ratification act are identical – to qualify, individuals must:

- be Estonian citizens;
- reside in Estonia;

- have long-term, stable, and continuing ties with Estonia;
- be different from Estonians ethnically, culturally, religiously, or linguistically;
- wish to jointly preserve their cultural traditions, religion, and language serving as the basis of their common identity.

In mid-1990s Mart Nutt, an ideologist of Estonian ethnic policies, believed that this definition allowed Estonia to regard Russians who historically resided in the proximity of the Lake Peipus as its only national minority.²⁰ Nevertheless the Cultural Autonomy Act explicitly mentions (ethnic) Russians, Germans, Swedes, and Jews as minorities. A cultural autonomy can be founded by any other group as well, if it meets the above-mentioned criteria and includes at least 3,000 Estonian citizens (Article 2(2)). So far the right to cultural autonomy has been used by Swedes and Ingrian Finns. It is clear from official documents that the authorities believe that Latvians can meet all the criteria and that therefore they could form a cultural autonomy if they wanted to.²¹ A number of experts hold that creating a cultural autonomy brings few advantages.²²

The criterion involving long-term ties with Estonia was obviously meant to exclude those minorities who entered the country in large numbers during the Soviet era (for example, Ukrainians). The criterion is fulfilled in the cases of Russians who historically resided not only in the rural areas around the Lake Peipus and near the Russian border, but also in Estonia's largest cities (especially in Tallinn, Narva, and Tartu).²³ Since intermarriages between 'historical' Russians and the Russians who came to Estonia in the Soviet era were widespread, any distinctions within the group would be hard to discern.

In its opinion on Estonia of September 14, 2001 the Advisory Committee of the Framework Convention for the Protection of National Minorities said it would regard both citizens and non-citizens as national minorities in Estonia. Moreover, the Committee praised the Estonian administration for taking an inclusive approach, and for not attempting to limit the rights of minority individuals who were not Estonian citizens.²⁴ Probably realising that it would be impractical to insist on defining minorities restrictively in the dialogue with the Council of Europe, the Estonian government admitted in its second

report on compliance with the Framework Convention that the citizenship criterion in the definition of a national minority currently had a ‘rather political-historical meaning’.²⁵

1.2.2. Official Integration Policy

Estonia adopted its first brief integration programme in 1999. It was followed by a more detailed programme, Integration in Estonian Society 2000 – 2007.²⁶ The document (Section 3.2) characterised the integration process as follows: “[O]n the one hand the social harmonisation of society on the basis of knowledge of the Estonian language and the possession of Estonian citizenship, and on the other hand the enabling of the maintenance of ethnic differences on the basis of the recognition of the cultural rights of ethnic minorities. The harmonisation of society also means the integration of both Estonians and non-Estonians around a unifying common core”. The programme proposed the following directions of integration:

- Linguistic-communicative integration: the creation of a common sphere of information and the Estonian language environment with the preservation of cultural diversity;
- Legal-political integration understood as the creation of a population loyal to the Estonian state, and the reduction of the number of residents without Estonian citizenship;
- Socio-economic integration understood as the achievement of greater competitiveness and social mobility regardless of ethnicity and native language.

The funding of various parts of the integration programme reached hundreds of millions of Estonian kroons and largely came from Western donors. Priority was given to knowledge of the Estonian language and to the acquisition of Estonian citizenship. As a result, most of the funds available for the implementation of the integration programme were spent on helping those whose native language was other than Estonian to study it.²⁷

The Government’s Regulation no. 172 of April 10, 2008 approved the new Estonian Integration Strategy 2008 – 2013. Its key principles are²⁸:

- adhering to fundamental European values;

- Estonian as the common language of communication in the public sector;
- strengthening state identity (“The objective of integration is to strengthen the common state identity of Estonia, developing common understanding of the state among permanent residents of Estonia based on the constitutional values of Estonia as a democratic state under the rule of law, valuing Estonian citizenship and appreciating the contribution of every person to the development of the society, at the same time accepting cultural differences”);²⁹
- involving all residents in developing society;
- equal opportunities;
- avoiding ethnicity-based separation;
- integration as a process originating at the individual level and involving the whole of society.

The financial support for the planned activities comes from the budgets of Estonian ministries and from the EU, particularly from the European Social Fund and the European Fund for the Integration of Third-country Nationals.³⁰ It is planned to spend annually 160 – 174 million Estonian kroons (10 – 11 million euros) in the above framework.³¹

The objective of the programme is to create a situation by 2013 such that, compared to 2007:³²

- The level of command of Estonian among the people whose mother tongue is not Estonian has improved on all levels;
- Contacts and communication between people with different mother tongues have increased and differences in participation in civil society organisations and the public sphere between Estonian and Russian speaking population have decreased;
- The percentage of people with undefined citizenship among the residents of Estonia has been consistently decreasing;
- The majority of Estonian residents trust people of other ethnic groups living in Estonia and they trust the Estonian state;
- The majority of the people whose mother tongue is not Estonian regularly receive information from Estonian media sources and trust them;

- Differences in employment and income levels between employees of different ethnic groups have decreased.

1.2.3. Language Policy

General Aspects

The preamble of the Constitution says that “[w]ith unwavering faith and a steadfast will to strengthen and develop the state, [...] which shall guarantee the preservation of the Estonian nation, language and culture through the ages, the people of Estonia [...] by a referendum held on 28 June 1992, adopted the following Constitution”. (The reference to the Estonian language was actually inserted into the preamble much later – only in 2007).

The preamble had been invoked by courts to resolve specific language-related legal disputes. Examining for the second time the constitutional legality of the requirement that members of the municipal councils must know Estonian, in 1998 the Supreme Court’s Constitutional Review Chamber ruled that “[t]he conformity of language qualifications with the Constitution proceeds from the preamble of the Constitution, pursuant to which one of the aims of the Republic of Estonia is to guarantee the preservation of the Estonian nation and culture throughout the ages. As the Estonian language is an essential component of the Estonian nation and culture, without which the preservation of the Estonian nation and culture is not possible, the enacting of electoral qualifications guaranteeing the use of Estonian by the Local Government Council Election Act is constitutionally justified”³³.

In spite of this judgment, the language requirement was nevertheless abolished. But in 2006, the Estonian parliament initiated an amendment of the Constitution to add a reference to the Estonian language to its preamble. The one-word amendment became effective in July 2007 (in April it was approved by the second parliament in a row). The explanatory note accompanying the draft legislation cited the Supreme Court’s judgment, quoted above, which expressed a general support for the language qualifications. It also said that “protection and

promotion of the beautiful Estonian language required more reliable symbolic and legal guarantees, and the ascription to the language by the Constitution of a particular priority would raise the prestige of learning Estonian and using it in daily life among Estonia’s residents who are not native speakers of Estonian”³⁴.

The Constitution also mentions the special linguistic rights of minorities: the right to preserve ethnic identity (Article 49), the right to establish cultural autonomies (Article 50), the right of national minorities’ educational institutions to choose the language of instruction (Article 37), the right to receive responses in minority languages from municipal and state authorities in localities where at least 50% of permanent residents belong to minorities (Article 51), and the right to use a second language in official transactions in localities where Estonian is not the native language of over half the residents (Article 52).

The issue of the cultural autonomy of a national minority (Article 50) was discussed above. The constitutional right to choose the language of instruction (Article 37) is probably supposed to be exercised by educational institutions created by cultural autonomies. The current Constitution (in contrast to the Constitution of 1920 with its Article 12) does not grant minorities the right to instruction in their native languages.

As for the use of the minority languages in official contacts, Article 52 of the Constitution refers to ‘the procedure provided by law’. The Language Act requires that local self-government (municipal) institutions ask the central government to grant the corresponding permissions (Article 11). No permits have ever been issued, however, in response to the requests submitted by several municipalities – the predominantly Russian-speaking Maardu and Narva, for example. It nevertheless makes sense to check how the above norm is interpreted in laws. A local self-government council can ask to allow a second language, but the corresponding permit would remain valid only until the expiration of the term of this council. No limits are imposed, meanwhile, on how long the central government can keep the request under consideration. Where the central government issues the permit, the local government and the council may decide to translate part or all of their sessions into the language of the national minority (and not vice-versa). No permit is

necessary to have minutes of self-government council sessions written in two languages in parallel (Local Government Organisation Act, Articles 23(7) and 41(3)-(4)). No other relevant norms can be found in the Estonian legislation.

According to a special provision of the Language Act based on Article 51 of the Constitution, in local self-governments in areas where half or more residents belong to a national minority every individual has the right to receive responses from municipal and local state institutions not only in Estonian but also in the corresponding minority language (Article 10). The rule is often ignored by public officials in areas with predominantly Russian-speaking populations. Furthermore, it does not apply, *inter alia*, to court bailiffs who are not regarded as public officials.

Though in Estonia a detailed definition of ‘a national minority’ can be found only in the National Minorities Cultural Autonomy Act, Estonian courts are not guided by it in the sphere of language regulation (thus they *do not* regard the national minority status as limited to citizens in the field of regulation of the Language Act).³⁵ However, the Supreme Court ruled that the right to receive responses from authorities in Russian or other minority languages belongs to individuals and not to ordinary legal entities.³⁶

Article 1(1) of the Language Act replicates the Constitution’s assertion (Article 6) that Estonian is the state language of Estonia. According to Article 4(1), every individual has the right to access the public administration and to communicate in Estonian in state agencies, local governments, bureaus of notaries, bailiffs and sworn translators, cultural autonomy bodies and institutions, companies, non-profit associations and foundations. A variety of acts regulating the use of Estonian in the official and public spheres reinforces this rule and provides for control over its implementation.

As mentioned above, integration largely relies on the official language as the instrument of promoting cohesion in the society. Estonian is the main (and in many cases the only) language of official communication and state-supported higher education. Nevertheless the Estonian language has not taken a sufficiently big role in daily inter-ethnic communication. Nevertheless the situation with the command of Estonian is improving. According to the 1989 census, only 15% of ethnic Russians in Estonia

spoke Estonian.³⁷ In 2000, the figure rose to 40%. A good command of Estonian is more widespread among younger people belonging to minorities (59% of the people aged 15 – 19).³⁸ Recent polls showed that proficiency in Estonian is continuing to rise, especially among younger people (see also Table J in Annex to Section 3.2).

Despite these positive changes, it appears that Russian-speakers have already used up most of the private resources they could allocate to the task of mastering Estonian, and in the future the progress in spreading proficiency in the language is going to be limited. Under the circumstances, the integration of Estonian society solely on the basis of the Estonian language is hardly possible. Moreover, even having no official status, Russian can compete with other languages in the republic. In reality, Russian is the predominant language of communication in certain regions of the country.

Table 4.

The ethnic composition and the native languages of the populations of Tallinn, Maardu, and the largest cities of the Ida-Viru county according to the 2000 national census, %

City	Ethnic non-Estonians	Russian as the native language	Estonian as the native language	All residents fluent in Estonian
Tallinn	46	43	52	74
Maardu	80	75	18	46
Narva	95	93	3	17
Jõhvi	67	63	31	56
Kohtla-Järve	82	80	15	39
Sillamäe	96	94	2	15

*Source: Statistics Estonia*³⁹

Place Names in Minority Languages

In 2003, Estonia passed a new Place Names Act which affords a more liberal approach to names in languages other than Estonian. Though the general rule is that place (geographical) names must be in Estonian, historically and culturally motivated exceptions are allowed.

If a local self-government chooses a non-Estonian place name, its decision must be confirmed by the Minister of Regional Affairs. The Minister makes the decision taking into consideration advice from the Place Names Council, and what language was spoken by the majority of the local population by September 27, 1939 when Soviet military bases were deployed in the country. If by that date the majority of the population in the area spoke Russian for example, the Russian place name can be chosen without such confirmation.

The law also allows local self-governments to change official names, but the procedure requires the agreement of the Minister of Regional Affairs and the Place Names Council. For example, a place can reclaim its original Estonian name. In addition to other reasons of purely technical character, a place name can be legitimised simply because it is used in practice more often than the official one. In this case the new name must meet the Estonian language and other requirements listed in the law (Article 7).

It should be noted that due to reasons rooted in Estonian history, many of the official geographic names in the country have changed more than once. Before the 20th century the official place names were in many cases German. The official place names were radically Estonianised during the first period of independence, and the process affected a large number of Russian villages and townships in the region bordering Russia and in the proximity of the Lake Peipus. In the Soviet era, the possibility of reverting to the original Russian names was not considered.

Though the Place Names Act does not prohibit reverting to previous names, in practice this would be extremely hard to realise, especially in the context of the deliberately broad interpretation of the act's principles. In the second report on the compliance with the Framework Convention for the Protection of National Minorities, the government pointed to yet another option listed in the law: a place that has once been renamed can get a parallel name. The report also says that the historically Russian districts in the Lake Peipus area were informed about this option.⁴⁰ According to the act, the use of a parallel name is meant to preserve the place's 'foreign name' in case it already has one in Estonian (or vice-versa). The corresponding decisions can be made at the local self-government level but they require the agreement of

the Minister of Regional Affairs who must seek the advice of the Place Names Council (Article 11). Several Swedish villages in the western part of Estonia have been given parallel names in this way.⁴¹

The 2005 initiative of the Kallaste city council to adopt the parallel name Krasnye Gory for the place yielded no result.⁴² The settlement with this name was founded by Russian old-believers who moved to Estonia from Russia in the early 18th century. At that time, maps showed both the Russian (Krasnye Gory), German (Krasnogor) and the Estonian (Kallaste) names of the place. The Russian name was used officially in the late 19th century. In the 1920s, the village became a township and was given an Estonian official name. In 1938, Kallaste was raised to the status of a city. However the Place Names Act prohibits parallel names for settlements whose borders are identical to those of administrative units (Article 11(2)) which is the case with most cities including Kallaste. In other words, the option of parallel names is open only to villages, settlements, and district towns which are not administrative units in Estonia.

1.2.4. Citizenship Policy

a). General Aspects

The naturalisation requirements are an indispensable part of Estonian ethnic policies. Since 1992, Estonia has had two citizenship Acts which – as a number of Estonian experts believed – reflected a compromise in the pursuit of two objectives: “to assure the survival of the Estonian nation by limiting citizenship to those who understood the country’s language and culture”, and “to integrate those who had settled in Estonia under the Soviet rule and thus to ensure a stable and loyal population.”⁴³

Most of the criticism of this approach concerned the language requirements linked to naturalisation. In the case of the 1992 Act – the restored 1938 Act – an important role was played by the Supreme Soviet’s decision on its application.⁴⁴ The Act allowed a simplified naturalisation procedure (involving no language requirements) for stateless individuals who had lived in Estonia for over a decade. However, the Supreme Soviet decided that the earliest starting point for the ten-year residence term had to be March 30, 1990, rendering the option practically useless.

The linguistic requirements for naturalisation were established by a separate Act which entered into force in 1993. This Act included provisions stipulating what kind of language proficiency has to be demonstrated by applicants to obtain citizenship.⁴⁵ It thus became possible for most ethnic non-Estonians to gain Estonian citizenship by naturalisation. The pre-war law had given ethnic Estonians a privilege: they did not have to take the language test.⁴⁶ In 2006 the percentage of ethnic Estonians who obtained Estonian citizenship with the use of this simplified procedure was 18% (25,293) of all naturalised people.⁴⁷

Until 1995, the content of the naturalisation language test was defined by a government regulation based on the Act on the Estonian Language Requirements for Citizenship Applicants. The corresponding procedure clearly made it possible for the examiners to treat applicants arbitrarily. Most of the questions arose in connection with the topics for conversation during the oral examination, which were country-specific in character (Estonia's major cities, lakes, rivers, and islands, its main historical events and figures, Estonian artists, etc.).

In 1995, the parliament passed a new Citizenship Act which broadened the range of naturalisation requirements to include a Constitution and Citizenship Act Test (Article 6). The new Act allowed no ethnically-based privileges. The rate of citizenship acquisition dropped sharply when, starting in 1996, the naturalisation process was switched completely to the new set of requirements (Table 5).

Table 5.
The numbers of individuals naturalised in Estonia annually, 1992 – 2008

Year	Naturalised	Year	Naturalised
1992	5,421	2000	3,425
1993	20,370	2001	3,090
1994	22,474	2002	4,091
1995	16,674	2003	3,706
1996	22,773	2004	6,523
1997	8,124	2005	7,072
1998	9,969	2006	4,753
1999	4,534	2007	4,228
		2008	2,124

Source: *Citizenship and Migration Board*⁴⁸

It is widely believed in Estonia that from the start the naturalisation requirements⁴⁹ introduced on the basis of the 1995 Act were more difficult to fulfil than the previous ones. Both the test's written part (an essay) and the oral part (conversations with no pre-defined themes) became more difficult. A 1996 study performed by the International Organisation for Migration showed that only around 30% of Russian citizens and 7% of stateless people in Estonia were not willing to acquire the country's citizenship.⁵⁰ Rudolf Bindig, who wrote a 1995 report on Estonia's compliance with human rights requirements, submitted to the Parliamentary Assembly of the Council of Europe, opined that contrary to the objective of promoting integration, the 1995 Act in fact tightened the language proficiency requirements. He said that if Estonia made gaining its citizenship extremely difficult for a large fraction of its population, and relied heavily on the system of residence permits, it would risk alienating the people who are in fact integrated and loyal to state and society and creating exactly the situation the Estonian administration sought to avoid, namely that of having a 'fifth column' of discontented Russian citizens and stateless people.⁵¹

The situation regarding Estonian citizenship remained tense in the late 1990s: Political scientist Klara Hallik argued that the naturalisation model chosen by Estonia implied the existence of a state-funded language instruction programme which however was absent. She has written that the unannounced objective was to use the language requirements as a barrier to prevent an increase in the number of citizens. She also concluded that the situation could not be final considering that most of the non-citizens in Estonia de facto had ties with it.⁵²

Since 2000, the language tests for employees (special tests must be taken by all public and many private sector employees) were the same as those used in the citizenship test.⁵³ The tests address listening and reading comprehension, and the ability to speak and write in the language. Since the language test certificate of any level could be used in the naturalisation process, the minimal naturalisation requirements were somewhat liberalised as a result.

The second naturalisation test examines knowledge of the Estonian Constitution and the Citizenship Act (Article 9(1) of the 1995 Citizenship Act). The procedure of this test and the list of questions

have changed a number of times. The current rules were set on January 14, 2002.⁵⁴ New rules are expected from March, 2009.⁵⁵

In practice, it is problems with the term of residence requirement that confront foreigners who had to work for a long time outside Estonia (sailors, for example). The Supreme Court did not deem it possible to count the time they spent working abroad as a part of the period necessary to gain citizenship.⁵⁶ The Supreme Court indicated clearly that naturalisation should be regarded as a privilege, not as a fundamental right.⁵⁷

Since 1999, a liberalised procedure of citizenship acquisition is open to children under 15 if they and both their parents are stateless. The corresponding amendments to the Citizenship Act were passed to accommodate the West's demands.⁵⁸ The legal foundation for the international demands was provided by Article 7(1) of the UN Convention on the Rights of the Child, according to which a child must be registered and given citizenship immediately at birth. Up to ten people annually can get citizenship for special services. They are exempt from the residence requirement, language proficiency, knowledge of the Constitution and the Citizenship Act requirements (Article 10 of the Citizenship Act). No requirements other than age and residence period are set for adults with restricted legal capacity (Article 35(1)). After a long period of hesitation, procedures were also relaxed for certain groups of people with disabilities (the persons who are unable to comply with naturalisation conditions for health reasons are now exempted from them; those who, for health reasons, are unable to fully comply with the requirements shall pass the examination in such manner as his or her state of health allows) (Article 35(2)-(3)). Any person who has completed basic, secondary or higher education in the Estonian language shall not be required to complete the language examination (Article 8(5)). Individuals born before January 1, 1930 do not have to take its written part but do have to take a written test in the Constitution and the Citizenship Act (Article 34).

Given the rather low naturalisation rate since the early 2000s, the Estonian administration took measures aimed at stimulating the process. The cost of Estonian language training can now be fully reimbursed (within certain limits) since January 1, 2004 (Article 8-1 of

the Citizenship Act⁵⁹). A possibility of a partial reimbursement existed previously in the framework of several projects implemented as a part of the 2000 – 2007 Integration Programme.

Political scientist Leif Kalev has written that historically the tradition of citizenship in Estonia was linked to the concept of a 'cultural nation': "Long isolation of the country from the modern citizenship institution, limited practices in the respect of treating legal immigrants and parochial elements in habits also exert influence on attitudes and policies. After restoring independence the Baltic nations continued both legislative and philosophical citizenship traditions of pre-war era and generally are continuously being modelled by their naturalisation laws as 'single-community' nation-states".⁶⁰ Nevertheless, Kalev argues that modern legal requirements for naturalisation have always been relatively open. There are no impenetrable barriers. The citizenship criterion for aliens is not depend on ethnicity but based on individual accomplishments in such a way that it would be possible for any individual to fulfil them.⁶¹

The majority of non-Estonians appear to disagree with the claim that the naturalisation process in Estonia is open and easily accessible. According to the 2005 Integration Monitoring, while 60% of ethnic Estonians held that the country's citizenship policy was "normal and in accordance with international standards" 70% of ethnic non-Estonians considered it "too strict" and believed that it violated "the human rights of non-Estonians".⁶² At the same time, 72% of the stateless residents of Estonia and 35% of its residents who were Russian citizens expressed in various forms the wish to get Estonian citizenship during the 2006 Prospects for Non-Estonians poll (a representative sample of 980 people). However only 19% of the stateless people and 9% of Russian citizens were convinced that they would be able to pass the corresponding Estonian language test.⁶³

In 2006, the UN Committee on the Elimination of Racial Discrimination recommended that Estonia take further measures to speed up the naturalisation process and to simplify access to it. In particular it advised organising free high-quality classes for all individuals applying for citizenship and stepping up awareness campaigns to familiarise people with the naturalisation procedure

and its benefits. The Committee repeatedly suggested that Estonia should ratify the *Convention on the Reduction of Statelessness* and the *Convention Relating to the Status of Stateless Persons*.⁶⁴

b). Ban on Naturalisation

Certain categories of non-citizens (including stateless residents) are denied the right to naturalisation in Estonia. For example, according to Article 21(1) of the Citizenship Act, Estonian citizenship cannot be granted to an individual:

- who has committed a criminal offence for which a punishment of imprisonment of more than one year was imposed, and whose criminal record has not expired, or who has been repeatedly punished according to the criminal procedure for intentionally committed criminal offences;
- who has been employed or is currently employed by the intelligence or security service of a foreign state;
- has served as a professional member of the armed forces of a foreign state, or who has been assigned to the reserve forces thereof, or has retired therefrom; and nor shall Estonian citizenship be granted to, or resumed by, his or her spouse who entered Estonia due to a member of the armed forces being sent into service, the reserve or into retirement.

As an exception, Estonian citizenship may be granted to, or resumed by, a person who has been repeatedly punished according to the criminal procedure for intentionally committed criminal offences, and whose criminal record has expired, “taking into consideration the circumstances relating to the commission of a criminal offence and the personality of the offender” (Article 21(1-1)).

In the majority of cases, this ban on naturalisation applies to former Soviet security service agents, military servicemen, and their spouses.

A former military serviceman can get citizenship only if he or she has been married for at least five years to an individual who obtained Estonian citizenship at birth (Article 21(2)).

Discrimination based on the above articles was unsuccessfully contested in the courts. Former Soviet military serviceman Vjatšeslav Borzov, a stateless resident of Estonia married to a naturalised Estonian

citizen, filed a complaint with the UN Human Rights Committee. He wrote that he had been discriminated against on the basis of his social status, which is against Article 26 of the International Covenant on Civil and Political Rights, but the Committee did not agree with his claim.⁶⁵

The law allows no exception for former secret service staff members. In 2008, the Supreme Court found no disagreement between the Citizenship Act and the Constitution in the case of a woman who had worked in the late 1970s for slightly over a year for the KGB as a secretary. She claimed that the ban on naturalisation led to discrimination against former technical staff.⁶⁶

The Citizenship Act explicitly demands that a naturalised citizen be loyal to Estonia (Article 6). In 2003, a young man was denied Estonian citizenship following an intervention by the Security Police. Statements had been published on the applicant’s website which were regarded by the administration as insulting to the Republic of Estonia.⁶⁷

According to the Constitution (Article 8) citizenship obtained at birth cannot be revoked. The principle has been incorporated into the Citizenship Act (Article 5(3)). A naturalised citizen can be stripped of his Estonian citizenship if he or she attempts to change the constitutional system of Estonia by force, as an Estonian citizen, enters state public service or military service for a foreign state without permission, and so on. Citizenship can be revoked in this way even if as a result the person concerned becomes stateless. The citizenship is revoked by a government decision, not by that of a court. It is prohibited to deprive an individual of the Estonian citizenship because of his or her beliefs (Article 28).

1.3. Fundamentals of Migration Policy

In Estonia the number of individuals belonging to minorities grew fourfold after the end of World War II, reaching 38.5% of the population by March 1989⁶⁸ (Table 1). When Estonia regained its independence, the people who were permanent residents and citizens of the Estonian Soviet Socialist Republic but who had not been citizens of the pre-war independent Republic of Estonia as of July 16, 1940, or their descendants, became ‘aliens.’⁶⁹ The legal foundations for their presence

in Estonia were defined by the Aliens Act passed on July 8, 1993. The same act (Article 20(2) of its first version) guaranteed to these ‘aliens’ who had a permanent registration (*propiska*) in Estonia as of July 1, 1990, and whose legal status was in line with the requirements of the act, the right to a residence permit (a temporary permit, initially) and to a work permit. A part of the population that could claim Estonian citizenship on the basis of the pre-war law – mostly women married to men who were Estonian citizens by birth, and their children from previous marriages, were, at the same time, recognised as citizens.⁷⁰ Most individuals belonging to minorities were not descendants of citizens of the pre-war Estonia. According to official estimates in 1992, a third of Estonia’s population were ‘individuals with undefined citizenship’.⁷¹

As noted above, Estonia’s population is divided into four major groups (2000 national census data): Estonian citizens (around 80% of the population), Russian citizens (6.3%), citizens of other countries (0.7%), and ‘individuals with undefined citizenship’ (the stateless former citizens of the USSR and their descendants) (12.4%).⁷² Most of the stateless people were ethnic non-Estonians (97%).⁷³ 53% of ethnic Russians in Estonia were born in the country, and 42% in Russia.⁷⁴ Only 21% of the Russian citizens were born in Estonia. In contrast, most of the stateless people were born in Estonia (52%).⁷⁵

As of January 2, 2009 there were 110,284 ‘individuals with undefined citizenship’, 96,616 Russian citizens, and 9,445 citizens of other countries holding valid residence permits in Estonia.⁷⁶ According to the Population Registry as of March 2009 non-citizens made up 16.1% of the country’s population (7.7% were stateless and there were 8.4% others).⁷⁷

Table 6.
The legal status of minorities in Estonia according to the 2000 national census

Citizenship	%
Estonia	39.5
‘Undefined citizenship’ (stateless former Soviet citizens and their descendants)	37.6
Russia	19.4
Other and unknown	3.5

Source: Statistics Estonia⁷⁸

Throughout the recent years the number of stateless people in the country has been decreasing due to migration, naturalisation in Estonia, mortality, and adoption of Russian citizenship. For example, 7,072 people obtained Estonian citizenship in 2005, 4,753 in 2006, 4,229 in 2007, and 2,124 in 2008 (Table 5). Overall, 149,351 people, most of them formerly stateless, were naturalised in Estonia in 1992 – 2008.⁷⁹

In recent years there has been an increase in the number of residents of Estonia obtaining Russian citizenship. It was obtained by 1,450 people in 2003, by 3,861 people in 2004, by 5,306 people in 2005, and by 3,124 people in 2006.⁸⁰ The increase resumed in 2007: in the period August 2007 – March 2008, the number of Russian citizenship applications more than doubled compared to the same months in 2006 – 2007. According to the Russian Embassy in Tallinn, “a considerable number of applicants indicated that they were motivated by a “loss of confidence in the Estonian administration and in Estonian democracy” after the events of April 2007” (when a Soviet war memorial was controversially removed from the centre of town, an event which led to violent clashes) and “by the now available unimpeded opportunities to travel to Russia and Europe and to get jobs there after Estonia joined Schengen”.⁸¹ The total number of people in Estonia who have received Russian citizenship in the period 1992 – 2007 is 147,659.⁸² This is much higher than the number of Russian citizens currently residing in Estonia.

There are no complete and fully reliable statistics reflecting migration flows in Estonia. According to the data supplied by the Statistics Estonia, over 26,000 people (2% of the whole population) – 81% of them Estonian citizens and 59% ethnic Estonians – left Estonia in 2000 – 2007.⁸³ Only 16% of those who left went to the CIS countries.⁸⁴

In 2007 the *Faktum & Ariko* Group presented a study entitled “The Level of Awareness and the Attitude of Estonian Residents to Refugees”. As in the similar 2006 study, half of those polled said that migration had a negative impact on Estonia. Greater tolerance to potential immigrants from Russia/CIS, North America, and Japan was demonstrated, but the level of readiness to receive immigrants from Russia/CIS decreased compared to past years, both among the majority and the minorities. The approach to immigrants from Muslim and African countries was the least tolerant.⁸⁵

According to the 2006 poll, most of the Russian citizens and stateless people in Estonia would not recommend people living abroad to move to the country. Those who would recommend it cited primarily Estonia's higher living standards and the opportunities to move from it to other EU countries. 41% of the citizens of Estonia, 57% of the Russian citizens, and 55% of the stateless did not recommend moving to Estonia, mostly citing as the reason the feeling that they were treated as 'second rate people' (citizens of Estonia, 36%; Russian citizens, 49%; stateless, 48%). Roughly the same numbers of respondents referred to the difficulty of finding a job.⁸⁶

1.3.1. Legal Bases for the Stay of Aliens

a). General Rules

The Aliens Act passed on July 8, 1993 is the main legislation regulating the status of non-citizens in Estonia. By mid-2008 there were 47 amendments adopted by the Parliament to change various provisions of this Act. Both foreign citizens and stateless people are regarded as 'aliens' by this law (Article 3). On the whole, Estonian legislation does not distinguish between these two categories of non-citizens. *Since 2004, the status of EU citizens, the countries of the European Economic Area and Switzerland, and their family members, has been regulated by separate laws (currently by the 2006 Citizen of European Union Act).*

According to the Aliens Act (Article 5-1) the legal bases for aliens to enter Estonia and to stay in Estonia are:

- an Estonian residence permit;
- a residence permit issued by a competent agency of a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation, except Estonia;
- an Estonian visa;
- a uniform visa issued by a competent agency of a member state of the European Union, a member state of the European Economic Area or the Swiss Confederation, except Estonia;
- the right to stay in Estonia arising from an international agreement;
- the right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;

- the right or obligation to stay in Estonia directly arising from law, a court decision or an administrative act;
- a residence permit or a return visa issued by a competent agency which belongs to the common visa area.

In the mid-1990s, the stateless former citizens of the USSR faced problems with having valid IDs necessary to live in Estonia and to travel abroad. Thanks to pressure exerted by Western countries and organisations, but only in 1996 after several years in which there was a legislative vacuum, these persons received the right to special 'alien passports',⁸⁷ which could be used as IDs in and outside of Estonia.

Foreigners who received residence permits before July 12, 1995 and who are not among the aliens specified in Article 12(4) of the Aliens Act, retain the rights and duties provided for in the earlier legislation of the Republic of Estonia (Article 20(1) of the Aliens Act). In general, any new Estonian legislation can abrogate the existing order and deprive a category of individuals of their former rights and duties. The Act affords no similar guarantees to aliens not belonging in the above category (for example, former foreign military servicemen, individuals sentenced to terms longer than one year for criminal offences, etc.).

b). Temporary Residence Permits

Temporary residence permits can be issued to an alien (Article 12(1)-(2) of the Aliens Act):

- for employment;
- for enterprise;
- for study in an educational institution;
- to settle with a close relative permanently resident in Estonia;
- whose permanent legal income ensures their subsistence in Estonia;
- whose application for a residence permit is based on an international agreement;
- who is married to a person permanently resident in Estonia.

As a rule the first application should be submitted to an Estonian representation outside the country. A number of exceptions are allowed by the Act (for example, for the members of families of Estonian citizens). An ethnically-based privilege is extended to ethnic Estonians,

their spouses, and minor children (Article 11-1). The provision is based on Article 36 of the Constitution which says that every ethnic Estonian has the right to settle in Estonia.

The Aliens Act has also established an annual immigration quota. The provision was revised after a judgment by the Supreme Court when lawyers from the Legal Information Centre for Human Rights proved that the quota could violate one of the fundamental rights – the right to family life.⁸⁸ Currently the quota equals 0.1% of the permanent population of Estonia and is not applied in most cases of family reunions. Every ethnic Estonian has the right to settle in Estonia outside of the immigration quota. The immigration quota does not apply to citizens of the US and Japan (Article 6).

Notably, significant numbers of residence permits have been issued based on international agreements (obviously to former Soviet military servicemen – see below). So, 2,363 residence permits were issued based on international treaties in 2006 and 1,436 in 2007, while 1,185 and 1,572 were issued the same years to allow people to settle with their families (Table 7).

Table 7.
Numbers of temporary residence permits issued on various bases in 2006 – June 2008

Basis /year	2006	2007	2008 (January – June)
Family reunion	1,185	1,572	684
Employment	565	733	492
Enterprise	7	3	31
Study	207	286	87
Legal income	43	35	13
International agreements	2,363	1,436	544
Total	4,370	4,065	1,851

Source: Citizenship and Migration Board⁸⁹

The Estonian migration law has many defects and ignores a broad range of situations potentially confronting aliens.

A Russian citizen had to move to Estonia from Kenya to take care of her parents who experienced serious health problems. When her

residence permit expired it transpired that there existed no legal basis for its renewal. She could not apply for a residence permit to settle with her close relative as Article 12-3(1) of the current version of the Aliens Act does not allow adult children to settle with their parents to take care of them. Nor was she able to get a residence permit for employment: according to Article 13-3 of the Aliens Act, that is possible only if a vacant position has not been filled, within the period of two months (now three weeks), by means of public competition and through the services of a state employment agency, by employing an Estonian citizen or an alien residing in Estonia, on the basis of a residence permit. Besides, the alien seeking to fill the vacancy has to have adequate qualifications, training, health condition, and work experience. Eventually, lawyers from the Legal Information Centre for Human Rights recommended that she apply for a residence permit based on an international human rights agreement, and only thus did she get it.⁹⁰

According to Article 14(2) of the Aliens Act, a temporary residence permit or work permit shall be revoked if an alien stays outside Estonia for more than a total of 183 days in a year if he or she does not register his or her absence with the Citizenship and Migration Board.

c). The Status of a Long-Term Resident of the EC

When the Aliens Act was passed in 1993, most of Estonia's Soviet-era residents were guaranteed temporary and later permanent residence permits in the country. Some people failed to obtain permanent permits since they had no permanent income or place of residence. According to the previous version of Article 12(3) of the Aliens Act, a permanent residence permit could be issued to an alien who had resided in Estonia for at least three of the last five years on the basis of a temporary residence permit, if his or her permanent legal income ensured his or her subsistence in Estonia, and if he or she has a valid residence permit and a place of residence in Estonia (unless otherwise provided by law). A permanent residence permit could not be issued to an alien who obtained a temporary residence permit for employment or study.

In April 2006 in order to transpose the Council Directive 2003/109/EC⁹¹ Estonia changed⁹² the Aliens Act and introduced the status of a

so-called long-term resident of the European Community (referred to as Status in what follows). All individuals holding permanent residence permits were automatically recognised as having the Status (Article 23-7(1) of the Aliens Act). As of January 1, 2006, some 85% of the valid residence permits were permanent (207,448).⁹³

According to the general rule now others had to fulfil the so-called integration requirement – by passing a test in Estonian – prior to submitting the Status applications. Individuals younger than 15 and older than 65, as well as those with limited legal capacity, are exempt from the requirement (Article 14-5). The integration requirement entered into force only in July 2007 and, as a result, the opportunity to obtain a permanent residence permit without taking the language test remained open for a year.⁹⁴ It could also be used by the categories of people who previously were unable to obtain permanent residence permits (for example, Soviet and Russian military pensioners). It should be noted, however, that some of the requirements were actually tightened: the period of residence necessary for a permanent permit to be issued rose from 3 to 5 years (Article 12(3) of the old version / Article 14-4(1) of the new one).

According to Article 14-9 of the Aliens Act, the long-term resident status can be annulled, among other reasons, if its holder spends 12 months continuously outside the EU or 6 years continuously outside Estonia; if the same status is granted to the holder in another EU member state; or if the holder poses a serious threat to public order and security (the Act does not specify what this condition actually means).

In 2006, the Citizenship and Migration Board issued 7,090 long-term residents' residence permits. In June 2007 there were 202,699 people with the Status in Estonia.⁹⁵ Thus, currently most non-citizens living in Estonia have the Status.

1.3.2. Special Groups of Aliens

The Aliens Act bars certain groups of aliens from obtaining temporary residence permits (Article 12(4)). The ban is formulated in vague terms and clearly leaves a lot to the discretion of Estonian officials. For example, Subsection 3 reads that a residence permit cannot

be issued to an alien if his or her activities “have been or are or there is good reason to believe that such activities have been or are directed against the Estonian state and its security”. This formulation makes it possible to act on the basis of suspicions instead of established facts. Similar formulations are found in other subsections of Article 12(4).

Temporary residence permits or work permits shall be revoked in the cases listed in subsections of Article 12(4) (Article 14(2) 1 of the Aliens Act). For example, problems with residence permit issuance and extension would be faced by individuals who had committed criminal offences, for which they were sentenced to more than one year in prison, or who had been repeatedly punished pursuant to criminal procedures for intentionally committed criminal offenses (Article 12(4) 5 and 8).

In practice, difficulties arise when aliens who served in the armed forces of other countries retired or became reservists and apply for residence permits. These people are given no right to residence permits, though individual exceptions are allowed. Besides, the ban on issuing permits also applies to their spouses and underage children (Articles 12(4) 7 and 14). The ban does not apply to citizens of NATO countries and their family members (Article 12(7)).

At present some 10,000 Soviet/Russian military servicemen and their family members – relatively old people, for the most part – live in Estonia.⁹⁶ Their right to residence was ensured by the so-called 1994 July Agreement between Estonia and Russia.⁹⁷ According to Article 2(1) of the Agreement, former Soviet/Russian military servicemen were entitled to residence permits if they posed no threat to Estonia's security. Until recently, only temporary residence permits were issued to them and to their family members ‘as exceptions.’ In the October 24, 2002 judgment,⁹⁸ the Supreme Court recognised that their right to residence permits was based on an international agreement and that they could apply even for permanent residence permits. In December 2003, the Aliens Act was amended to resume the ban on issuing permanent residence permits to this category of citizens.⁹⁹ The limitations, however, stopped making sense after the introduction of the status of a long-term resident of the EC (see above).

Estonia's official position is that individuals who retired after the signing of the July 1994 Agreement between Russia and Estonia should

not be protected by its provisions. The Supreme Court adopted a similar stance on the issue.¹⁰⁰ As a result, the residence permit applications submitted by members of some 115 families were initially turned down with a reference to Article 12(9) 4 of the Aliens Act which says that residence permits cannot be issued to individuals who had committed to leaving the Republic of Estonia, who had received a residential space abroad within the framework of an international aid programme, or who had received support for leaving Estonia. The 115 families were enrolled in the US-sponsored programme based on a bilateral US-Russia agreement in the early 1990s, and later obtained temporary residence permits in Estonia.

A former security service employee, his or her spouse and underage children cannot be issued a residence permit if “his or her age, rank or other circumstances do not preclude his or her conscription into service in the security forces or armed forces or other armed units of his or her country of nationality” (Article 12(4) 10 and 14). The rule does not apply to citizens of NATO countries and their family members (Article 12(7)). The above limitations therefore principally affect former KGB employees, regardless of their specific occupations during their service.

1.3.3. Illegal Aliens. Expulsion

The conservative estimate of the number of illegal aliens in Estonia puts their number at several thousands. They can be divided into two major groups: those who used to live in Estonia before 1990 – 1991 and ‘newcomers’. The first category comprises the individuals who failed to get residence permits due to the restrictive and inflexible character of the Estonian migration legislation or their personal mishaps. The second category consists mainly of people working in Estonia illegally or who have not previously got residence permits to settle with their families due to the immigration quota.

According to the Obligation to Leave and Prohibition on Entry Act, an illegal alien can be ordered either to leave the republic or to legalise his or her residence. Both orders can be appealed in court (Article 13(3)).

Legalisation can be prescribed to ethnic Estonians and to individuals who settled in the country before July 1, 1990 if they have not left Estonia to reside in another country and if their presence causes no damage to the interests of the Estonian state (Article 9(1)). According to the Aliens Act (Articles 6(2), 11-1(2) 1 and 10, and Article 21), such non-citizens can apply for a residence permit outside the annual immigration quota and submit applications from within Estonia. However, many illegal aliens will not be able to apply, since there is no the legal basis for them to do so. In practice only family reunion can be cited as an argument for granting them residence permits.

Individuals subject to expulsion can be detained in the Expulsion Centre. In one extreme case, Nikolay Mikolenko was held in it on the basis of a court warrant which was renewed over and over for about 3 years until he was released by a court ruling based on humanitarian considerations. Currently his wife remains in custody in the Centre. Mikolenko failed to contest the decision to expel him from Estonia but the expulsion was made impossible because he had no valid IDs (in his case it was a Russian passport).¹⁰¹

It is obviously inappropriate in terms of human rights to keep a person in custody for several years if you cannot expel him or her immediately. In 2006 the Supreme Court concluded that even if expulsion is probable, the term of detention in the Centre should not be extended in case it becomes a disproportionate infringement on the constitutional right to freedom and inviolability of the person.¹⁰²

Since March 1, 2003,¹⁰³ aliens who entered Estonia with valid visas can be expelled without an administrative court warrant or a precept if their visas have expired. Aliens if they have received criminal convictions and have no valid residence permits can also be expelled upon release from prison without an administrative court warrant or a precept (Obligation to Leave and Prohibition on Entry Act, Article 14(31)-(32)). Formally the rule applies to the majority of illegal ‘newcomers’.

A new version of Article 33¹⁰⁴ of the Obligation to Leave and Prohibition on Entry Act entered into force since December 21, 2007. If an individual’s entry to Estonia is banned, his or her name is added to the SIS – the Schengen Information System – which makes it impossible to enter the Schengen zone via any of its border checkpoints.¹⁰⁵ The

administration can limit the ban on entry to the territory of Estonia or choose not to do so. According to Article 33-2 of the Act, an individual should be informed about a ban on entry if he or she requests the information. Article 33-3 says that the ban on entry can be contested by an individual within 30 days after having being informed about it.

In May – August 2007, Estonia expelled 10 activists of the Nashi (pro-government youth movement in Russia) who entered the country with tourist visas.¹⁰⁶ Their visas were annulled and the young people were banned from entering Estonia for 10 years after they dressed in World War II Soviet Army uniform and attempted to hold a vigil replicating the pose of the Bronze Soldier statue moved from Tõnismägi Square by the Estonian administration. The expulsion was widely commented on by Estonian officials and politicians. Some of the Nashi activists who did not travel to Estonia but took part in protests near Estonian representations in Russia also face problems with entering the Schengen zone countries, as the Estonian authorities placed their names in the SIS database.¹⁰⁷

1.4. Fight against Ethnic, Racial, and Religious Discrimination on the State Level

1.4.1. Legislation

a). *Constitutional Guarantees*

Article 12 of the Estonian Constitution says that everyone is equal before the law and no one shall be discriminated against on the basis of ethnicity, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The constitutional principle of non-discrimination is reiterated by a number of laws. It is a commonly held view that the Constitution prohibits discrimination on any basis including those listed in Article 12. This is a significant circumstance as in Estonia the Constitution is directly applicable in the courts.

As for equality before the law, the Supreme Court's Constitutional Review Chamber confirmed that the principle applies to all spheres

of life. The court also stated clearly that equality before the law is a fundamental right.¹⁰⁸

Cases in which parties invoke Article 12 of the Constitution per se come to the Supreme Court, but no ethnic, racial, or religious discrimination cases have ever been heard in it. Nevertheless, the Supreme Court has developed a number of significant principles concerning unequal treatment. On the whole, Article 12 of the Constitution should be interpreted so as “those who are equal must be treated equally and those who are unequal must be treated unequally [...] The prohibition to treat equal persons unequally has been violated if two persons, groups of persons or situations are treated arbitrarily unequally. An unequal treatment can be regarded as arbitrary if there is no reasonable cause there for”.¹⁰⁹ The issue of whether unequal treatment of two persons, two groups of persons or situations “is justified or unjustified (i.e. arbitrary) can only arise if the groups who are treated differently are comparable, i.e. they are in an analogous situation from the aspect of concrete differentiation”.¹¹⁰ In one of its judgments the Supreme Court showed clearly that “unequal treatment can not be justified by difficulties of mere administrative and technical nature”.¹¹¹

*In September, 2007 the Constitutional Review Chamber of the Supreme Court ruled that Articles 120 and 131(3) of the Public Service Act were unconstitutional because they envisioned the right to sack officials when they reached the age of 65 and established compensations for such occasions. The Supreme Court cited its own practice and stressed that arbitrary unequal treatment would be unconstitutional. In the case heard there were no rational reasons warranting the inequality set by the law. The Court ruled that the unequal treatment of senior-age officials was unreasonable, unjustified, and obviously arbitrary.*¹¹²

However the ban on discrimination is not absolute and must be considered in the light of Article 11 of the Constitution according to which “[r]ights and freedoms may be restricted only in accordance with the Constitution. Such restrictions must be necessary in a democratic society and shall not distort the nature of the rights and freedoms restricted.”

Article 9(1) of the Constitution reads: “The rights, freedoms and duties of each and every person, as set out in the Constitution, shall be equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia.” Nevertheless, treating citizens and non-citizens unequally is allowed in certain spheres such as state assistance (Article 28), the right to freely choose the area of activity, profession and place of work (Article 29), and the right to engage in enterprise and to form commercial undertakings and unions (Article 31).

b). Criminal Law

A special provision of the Penal Code which entered into force in September, 2002 (Article 152) makes punishable the unlawful restriction of the rights of a person, or the granting of unlawful preferences to a person, on the basis of his or her ethnicity, race, colour, sex, language, origin, sexual orientation (from 2006), religion, political opinion, financial or social status. However, no charges had been pressed in connection with the Article in 2003 – 2007.¹¹³

The following Articles of the Penal Code could play an important role in the context of the struggle against discrimination: Article 151 (incitement of hatred), Article 153 (discrimination based on genetic risks), Article 154 (violation of freedom of religion), and Article 155 (compelling a person to join or retain membership of a religious association). However, only Article 151 dealing with the incitement of hatred has been used over recent years. The practice of its application is examined in detail in Section 2.2.a below.

c). Implementation of EU Anti-Discrimination Norms in Estonia

In 2000 the EU passed a directive banning discrimination based on race and ethnic origin practically in all spheres of public life (the so-called Race Directive). Another directive passed the same year banned discrimination in the labour market based on religion, age, disabilities, and sexual orientation.¹¹⁴ Estonia as well as other EU candidate states was supposed to transpose the requirements contained in the directives into their national legislations by May 1, 2004. (Directives are binding EU acts and their requirements must be incorporated into national law.)

In 2004 Estonia passed a separate Gender Equality Act. As for discrimination on other grounds, the Employment Contracts Act and

the Chancellor of Justice Act were amended in 2004 as a temporary solution. Two Estonian parliaments failed to pass legislation drafts intended to complete the implementation of European norms in the national legislation before the new elections held in 2003 and 2007 (the 9th Riigikogu did not pass draft no. 1198 and the 10th – no. 1101). In May, 2007 the Estonian government approved a third draft of the Equal Treatment Act (draft no. 67 submitted to the 11th Riigikogu), but it was rejected in May, 2008. Subsequently draft no. 262 of similar content was submitted but again it fell one vote short of being passed. Draft no. 384 was submitted on November 6, 2008 and was passed by the parliament on December 11, 2008. By this legal move most of EU discrimination-related provisions were finally transposed into national legislation.

Thus, it took Estonian legislators about five years to introduce detailed norms for protection against discrimination based on race, ethnic origin, religion, age, and sexual orientation aligned with the requirements spelled out in EU directives.¹¹⁵

d). Labour Law

As of late 2008, more progress towards the implementation of the EU anti-discrimination requirements was made in Estonia's labour law than in other legislation spheres. The corresponding amendments to the Employment Contracts Act were passed in 2004.¹¹⁶ The Act does not regulate the labour relations of a number of areas, for example the work of state and local government officials. As a result, the scope of the anti-discrimination provisions of the Employment Contracts Act was not as broad as required by the EU directives concerning the labour market.

Article 10 of the Employment Contracts Act prohibited discrimination based on race, ethnic origin, level of language proficiency, religion and other views.

The Employment Contracts Act contained definitions of direct and indirect discrimination similar to those found in the EU directives. The term ‘harassment’¹¹⁷ was given a wider interpretation in the EU directives than in Estonia's national law. Estonian legislators did not implement the provisions concerning, for example, the protection of individuals victimised as a result of discrimination if they took their cases to court, etc. These shortcomings were eliminated when the Equal Treatment Act was passed.

e). The New Equal Treatment Act

The Equal Treatment Act entered into force on January 1, 2009. It includes definitions of direct and indirect discrimination and rules for protecting victims of discrimination against harassment and victimisation (Article 3) which are practically identical to those spelled out in the EU directives.

Detailed anti-discrimination norms are established not only for the private sector but also for state and municipal officials (Article 2).

As for discrimination based on race and ethnic origin, the Act's scope includes not only employment but also the spheres of education, social protection, including social security and healthcare, social advantages, and access to and supply of goods and services which are available to the public, including housing (Article 2).

The Equal Treatment Act (Article 10) states that a difference of treatment shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned, or of the context in which they are carried out, the attribute at issue constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate. Specific measures ('positive actions') to prevent or compensate for disadvantages linked to any of the attributes specified by the Act are allowed, provided that such action is in proportion to the objective being sought (Article 6).

Article 9(1) of the Equal Treatment Act provides that measures do not prejudice the adoption or maintenance of specific measures which are in accordance with law and are necessary to ensure public order and security, to prevent criminal offences, or to protect the health, rights and freedoms of others. Any such act must be in proportion to the objective being sought. Despite the proportionality requirement, this provision is not in conformity with the requirements contained in the 2000/43/EC Directive, as the Estonian legislation allows exceptions from the ban on direct discrimination based on ethnicity and race, whereas the directive affords them solely in the case of genuine and determining occupational requirements or in the context of positive actions.

Changes in the Public Service Act were introduced by the Equal Treatment Act. The improvements include the ban on discriminating against state and local self-government officials on the basis of sex,

ethnic origin, race, colour, religion or other beliefs, age, disability, sexual orientation, level of language proficiency, duty to serve in defence forces, marital or family status, family-related duties, social status, representation the interests of public servants or membership in an organisation of public servants. The Equal Treatment Act should be invoked whenever discrimination on any of the above grounds takes place (Article 36-1(1)-(2) of the Public Service Act).

Questions arise in connection with Article 36-1(3) of the Public Service Act which states that unequal treatment based on language proficiency should not be regarded as discrimination if it is allowed by the Language Act or the Public Service Act. A deliberate tightening of the language requirements can lead to indirect discrimination based on race or ethnic origin. By allowing the exception from the general rule, the Estonian legislators de facto refused to comply fully with the requirements of the 2000/43/EC Directive.

1.4.2. Specialised Institutions Charged With Fighting Discrimination

In an effort to meet the EU law requirements, Estonia amended¹¹⁸ the Chancellor of Justice Act in 2003 to convert the Chancellor's bureau into a specialised institution charged with fighting discrimination.

Two procedures are available to the Chancellor of Justice depending on who is responsible for discrimination: (1) a state agency, local government agency or body, a legal person in public law (for example, a school), a natural person or legal persons in private law performing public duties; or (2) a private legal entity or an individual. In the former case the Chancellor acts as the ombudsman and can initiate proceedings on his or her own initiative; in the latter case, the Chancellor is authorised to conduct a conciliation procedure in which both the victim and the alleged perpetrator of discrimination are free to partake or not.

Everyone has the right of recourse to the Chancellor of Justice if discriminated against in the public sphere. In the private sphere, the list of grounds of discrimination includes sex, race, ethnic origin, colour, language, origin, religion or religious beliefs, political or other opinion, property or social status, age, disability, sexual orientation, or other

attributes specified by law (Article 19 of the Chancellor of Justice Act). Allegations of discrimination concerning the professing and practicing of faith, or working as a minister of a religion in religious associations with registered articles of association, relations in family or private life, and inheritance issues do not fall within the competence of the Chancellor of Justice (Article 35-5(2)).

Agreements signed by conflicting parties in the framework of the conciliation procedure supervised by the Chancellor have the same consequences as court judgments: implementation of an agreement approved by the Chancellor of Justice is mandatory for the parties to conciliation proceedings. An agreement may conclude obligation to pay compensation. An agreement approved by the Chancellor of Justice is final and cannot be contested in court, except if the Chancellor of Justice has materially violated a provision of the conciliation procedure and if such violation affects or may affect the content of the agreement (Articles 35-14, 35-15).

The problem of unequal treatment was addressed by the Chancellor's bureau in 2007 in 60 procedures (23 procedures in 2006).¹¹⁹ Nevertheless, very few of these cases dealt with ethnically or racially based discrimination.

As for the conciliation procedure, at most a dozen petitions were submitted to the Chancellor, and in 2004 – 2007, for various reasons, none of them reached the final stage.¹²⁰

The labour disputes commissions (a pre-trial institution) received 14 discrimination-related complaints in 2006 – 2007. None of them involved allegations of ethnic, racial, or religious discrimination.¹²¹

In the 2006 Concluding Observations on Estonia, the UN Committee on the Elimination of Racial Discrimination expressed concern that very few proceedings related to racial discriminations were brought in the country: “The Committee reminds the State party that the mere absence of complaints and of legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute.”¹²²

In addition to the Chancellor of Justice, the Equal Treatment Act which entered into force on 1 January 2009 establishes the position of the Commissioner for Gender Equality and Equal Treatment (in practice

broadening the mandate of the Gender Equality Commissioner). Among other responsibilities, the Commissioner will assess the compliance with the equal treatment principle in a particular legal relationship (Article 17(2)). He or she will also be charged with publishing reports on implementation of the principle of gender equality and equal treatment (Article 16(7)).

1.4.3. Discrimination in Public Opinion

a). *The 2006 and 2008 Eurobarometer Studies*

A special study of discrimination was conducted in 2008 on the initiative of the European Commission's Directorate-General for Employment, Social Affairs and Equal Opportunities. It was based on the standard *Eurobarometer* approach used in regular EU public opinion surveys sponsored by the European Commission. The Estonian survey was performed by TNS Emor with a representative sample (1,000 interviews with citizens of Estonia and other EU countries).¹²³ A similar study was also conducted in June – July 2006.¹²⁴

The survey showed that most of the respondents from Estonia responded to questions about discrimination with greater optimism than their peers across the EU on average. On the whole, Estonian respondents said that the most widespread type of discrimination (judging by the sum of replies such as ‘very widespread’ and ‘fairly widespread’) was that based on disabilities (40%), age (36%), and ethnic origin (41%). The corresponding EU averages were 45%, 42%, and 62%.¹²⁵ In 2006 the Estonian indicators were: disability 49%, age 48%, ethnic origin 37%.¹²⁶

To probe into the extent of openness/tolerance in the framework of the 2008 survey, the respondents were asked the question whether they had friends/acquaintances of ethnic or racial origin other than their own. While the average EU indicator was 55%, in Estonia it was 78% (76% in 2006).¹²⁷ As particular attention is currently paid by the EU to Roma, a separate question in the survey was asked about friends or acquaintances from this community. While the EU average was 14% it was 7% in Estonia.¹²⁸ It is unclear what the explanation behind the data could be, as the Roma constitute 0.1% of the population of Estonia at most.

In 2006, 41% of the respondents in Estonia believed that their state did enough to fight all types of discrimination. The indicator was close to the EU average of 45%. However, only 19% of Estonian respondents said they were aware of their rights in the case of being discriminated against.¹²⁹ Of all the 25 countries surveyed, only Austria showed a poorer performance in this respect. On average, in 2006 one out of three respondents in the EU knew what his or her rights would be in the case of discrimination.¹³⁰ By 2008 the indicator in Estonia had reached 33% and thus equalled the EU average. There was also an increase in the share of respondents to 47% – close to the EU average of 48%¹³¹ – who were convinced that Estonia was making sufficient efforts to fight all types of discrimination. It is unclear what the shifts could be attributed to, since the administration did not launch any visible campaigns related to fighting discrimination, the Equal Treatment Act was passed only in late 2008, and the results of the work of the corresponding institutions outlined above were modest (Section 1.4.2).

b). The 2005 Survey in Tallinn

What makes the situation in Tallinn particularly interesting is the fact that Estonians and other Russian-speakers are represented in its population in roughly equal numbers. Not only inter-ethnic contacts but also competition between the city’s two largest communities are inevitable under the circumstances. Issues of ethnic and linguistic discrimination were at the focus of a study performed by the Legal Information Centre for Human Rights in Tallinn in 2005. The sociological firm Saar Poll used a standard representative sample of 700 people including 375 ethnic non-Estonians. The majority of those polled stated that the two largest ethnic groups were isolated from each other. At the same time, many respondents did not regard the ethnic division as evidence of discrimination in society. Almost a third of the ethnic non-Estonian respondents said there existed inequality between the two ethnic groups, and the same view was held by 17% of the Estonians. Only a small minority was convinced that ethnic groups were equal in Estonia (Table 8).

Table 8.

What is your assessment of the current situation in society? Tallinn, 2005

	Across the survey		Ethnic groups			
	Number	%	Estonians		Non-Estonians	
			Number	%	Number	%
The society is divided, there is apparent inequality (discrimination)	170	24.3	55	16.9	115	30.7
Ethnic groups are isolated from each other but there is no apparent discrimination	427	61.0	205	63.1	222	59.2
Ethnic groups are equal and enjoy partnership and cooperation	65	9.3	41	12.6	24	6.4
Have no answer	38	5.4	24	7.4	14	3.7
Total	700	100.0	325	100.0	375	100.0

Source: Legal Information Centre for Human Rights – Saar Poll¹³²

The study was also aimed at comparing the perceptions of respondents regarding opportunities of ethnic Estonians and non-Estonians in various spheres of life (Table 9).

Practically all indicators in Table 9 are below 4 (average), which means that, in the respondents’ opinion, ethnic Estonians have advantages in all of the above spheres of life. For minorities the only exception to the rule is the possibility to take part in church and religious life. Ethnic Estonians also express the view that equal opportunities are opened to minorities in the material sphere (success in business and the achievement of material security), though non-Estonians do not think so.

Respondents were also asked whether their rights have been restricted during the last three years, and whether they experienced degrading treatment based on their ethnic origin. Table 10 shows that both ethnic Estonians and non-Estonians most often encountered (or believe that they encountered) restrictions of their rights and degrading treatment based on ethnicity in the retail and transportation sectors.

Table 9.

For whom are the following things easier, other things being equal including command of the official language and Estonian citizenship?

(1 – Easier for Estonians; 4 – the opportunities are equal; 7 – easier for non-Estonians), Tallinn, 2005

	Across the survey	Ethnic groups	
		Estonians	Non-Estonians
Make a career in politics	2.25	2.98	1.62
Be successful in business	3.25	3.90	2.70
Get good education	2.92	3.59	2.35
Achieve economic welfare	3.19	3.94	2.55
Get pensions and benefits	3.57	3.77	3.39
Participate in religious and church life	3.91	3.93	3.89

Source: Legal Information Centre for Human Rights – Saar Poll¹³³

Table 10.

Experience of the infringement of rights or maltreatment in the past three years due to ethnic background, Tallinn, 2005,%¹³⁴

	Ethnic Estonians		Ethnic non-Estonians							
			Total		Naturalised citizens of Estonia		Citizens of Russia		Stateless	
	yes	no	yes	no	yes	no	yes	no	yes	no
Educational establishments	2.8	58.5	11.2	53.6	11.4	59.3	5.1	41.0	12.0	55.0
Shops	12.3	74.2	28.8	65.6	21.1	74.0	38.5	55.1	38.0	58.0
Bars and , restaurants	5.8	72.0	9.9	74.9	6.5	82.9	7.7	64.1	12.0	75.0
Housing	3.1	63.7	12.5	66.4	13.0	67.5	12.8	61.5	15.0	72.0
Transport	8.0	75.1	21.3	73.3	15.4	78.9	23.1	73.1	29.0	69.0
Work	1.8	–	17.1	–	15.4	–	16.7	–	23.0	–

Source: Legal Information Centre for Human Rights – Saar Poll¹³⁵

The authors of the study note that the data does not necessarily reflect the real cases of discrimination in the legal sense of the word. Although under certain circumstances non-Estonians cite unequal treatment based on ethnicity and language 10 times more often than Estonians, on the whole the situation is far from critical in the respondents' view. One can suppose that because discrimination is not discussed much in public, people are not inclined to interpret the difficulties they experience daily in this light.¹³⁶

c). The 2007 Pan-Estonian Survey

The first broad study of the problem of unequal treatment spanning the entire Estonia was carried out only in 2007 (commissioned by the Ministry of Social Affairs in the framework of European Year of Equal Opportunities). A representative survey involving 1,208 people was carried out by *Turu-Uuringute AS* in May – June, 2007, shortly after the mass protests in Tallinn ignited by the relocation of the Soviet World War II memorial from Tõnismägi Square. The then-recent events highlighted the importance of a number of problems related to ethnicity, native language, etc. Dealing with these contentious issues, sociologists nevertheless claimed that “the sensitivity of the theme as such was no reason to anticipate overstatements or distortions in the responses”.¹³⁷

Responses to the question about the acuteness of the discrimination problem showed that the audience was divided into two groups of approximately equal sizes: 47% deemed the problem serious while 49% did not. Work was identified most often as the sphere of life where discrimination was encountered. Of those who personally experienced discrimination against themselves during the last three years, 57% said the problem occurred at the workplace. People aged 18 – 29 were particularly vulnerable to discrimination at the workplace. People with very low incomes and incomes higher than average also faced serious discrimination problems related to their work.¹³⁸

The grounds for discrimination mentioned most often by respondents were a lack of fluency in the Estonian language, individual backgrounds, disabilities and long-term health problems, age, ethnic origin, and native language.¹³⁹

A large percentage of the respondents (42%) said they had faced unequal treatment during the past three years. Up to a third of those polled reported that their relatives, friends, or acquaintances had been discriminated against. In the majority of cases, discrimination took place in the service sector and at work. Typically, respondents cited ethnic origin and age as the potential grounds for discrimination. They also said that often factors such as social networking (or lack thereof), material status, lack of Estonian language proficiency, disability, and health problems also appeared to be causes of unequal treatment. The conclusion stemming from the research was that the experience of being discriminated against was predominantly related to the 'ethnicity issue'.¹⁴⁰

The authors emphasise the importance of the following circumstance: "The local so-called non-Estonians (predominantly Russians) became a minority as a result of an overhaul of country borders, not as a result of immigration in the ordinary sense of the word, and the situation bred a broad range of specific problems not encountered in other countries. [...] In contrast to typical immigrants in West Europe, initially these people had high rather than low statuses in their country of residence".¹⁴¹

While only 43% of ethnic Estonians regard unequal treatment as an acute problem, the view is held in the Russian community by 60% of the respondents.¹⁴² Russian-speaking respondents cited ethnic origin, the native language, lack of fluency in Estonian, and citizenship as discrimination grounds more often than Estonian-speakers. Ethnic Estonians tended to mention such grounds for discrimination as gender, age, disability, and material status.¹⁴³

Notably, ethnic non-Estonians fluent in Estonian mentioned the native language as a ground for discrimination more often than those who did not know it well or at all (54% vs. 31%). Similarly the former group regarded the ethnic origin as a factor of discrimination more often than the latter (58% vs. 37%).¹⁴⁴

The ethnic non-Estonians who were fluent in Estonian and who had had the experience of being discriminated against were disadvantaged more often than those who were not fluent when they were getting employed (41% vs. 24%), getting paid (40% vs. 14%),

and being promoted (15% vs. 4%). At the same time, the two groups were in similar conditions in terms of the distribution of duties at work. In the service sector, ethnic non-Estonians spoke more often than Estonians about being discriminated against in terms of access to public information (those who were fluent in Estonian criticised the sphere even more often than those who were not – 38% vs. 14%). One out of five ethnic Estonians and one out of four non-Estonians faced discrimination in stores. At the same time, Estonians were discriminated against more often than non-Estonians when applying for bank loans. Ethnic Estonians also mentioned more often being discriminated against by the health care system (Table 11). The latter finding can be explained by the fact that the population of rural communities and small towns with underdeveloped infrastructures is predominately Estonian.

Thus, contrary to official claims, a proficiency in Estonian provides no guarantee against discrimination based on the ethnicity and native language, especially in the sphere of labour relations. Moreover, a good command of Estonian is linked to an increasing probability of facing discrimination on the grounds of ethnicity and language. One of the explanations behind the phenomenon may be that ethnic non-Estonians fluent in Estonian constitute the younger and better-educated part of the non-Estonian population. As a more mobile group, they get involved in competition more often and therefore are more frequently exposed to potential discrimination. The partial segregation observed on the labour market ('Russian' and 'Estonian' companies or spheres of activity) reduces the likeliness of discrimination within particular sectors. Geographical distribution of the population also factors into the situation (for example, the population in the North-Eastern part of Estonia is predominantly Russian-speaking).

Experts argue that among ethnic non-Estonians those with vocational school and college or university based education, regardless of their sex, face the highest risks of being discriminated against. If a combination of factors such as ethnicity, age, and sex is taken into account, the highest exposure to discrimination is found among young women (aged 18 – 39) regardless of their ethnic origin and young and middle-aged men of the non-Estonian ethnic origin.¹⁴⁵

Table 11.
Spheres in which personal experience of unequal treatment was gained depending on the level of Estonian language proficiency, 2007, %

	Estonian as the native language N=311	Ethnic non-Estonians having a good command of Estonian N=104	Ethnic non-Estonians having a poor or no command of Estonian N=96
LABOUR RELATIONS	53	71	54
Getting employed	17	41	24
Getting paid	28	40	14
Distribution of duties	16	12	13
Promotion	11	15	4
Other work-related situations	9	24	17
EDUCATION	24	28	19
SEVICES SECTOR	60	67	56
Access to public information	7	38	14
Access to health care	24	15	16
Bank loans	16	8	5
Service in stores, etc.	21	27	26
SOCIAL TIES	31	25	44
Neighbours	16	7	12
Family relations	9	6	22
MASS MEDIA	15	42	43
Press	9	37	23
Radio and TV	7	36	30
Internet	7	24	10

Source: Ministry of Social Affairs¹⁴⁶

Half of all those polled said they in no way resisted to being discriminated against. The corresponding percentage among Estonian-speakers was 35%. The level of passivity among native speakers of Russian fluent in Estonian was even higher (64%) than among those speaking little Estonian or not knowing it at all (51%). Regardless of the native language, respondents mostly limited their reactions to discrimination to arguing with the perpetrators, complaining to their superiors, etc. Only 4% of the speakers of Estonian and 1% of the speakers of Russian went to the police or to court. Some 8% of Estonians and no non-

Estonians fluent in Estonian turned to administrative institutions when facing discrimination.¹⁴⁷

The authors of the study concluded that the perception of discrimination largely depended on the wideness of its public discussions. Currently Estonian society most often associates discrimination with ethnic origin. "Respondents appear to interpret some of their experiences as unequal treatment, even though they are not recognised as such by the current Estonian legislation and political decisions. The interpretation is also clearly affected by the intense ethnicity related politicisation in the Estonian society. Nevertheless, the above interpretation is an established fact. It is not only non-citizens who say that discrimination based on ethnicity is a reality; paradoxically the view is most widely held among native speakers of Russian who are Estonian citizens. Since citizenship is expected to ensure the status of a full-fledged member of the society, more attention should be paid to preventing discrimination based on ethnicity in order to facilitate the political integration of the Russian-speakers"¹⁴⁸

PART II.

SPECIFIC ISSUES CONCERNING THE REALISATION OF CIVIL AND POLITICAL RIGHTS

2.1. Participation in Political and Public Life

a). Politics

In 1992, Estonia's last Supreme Soviet re-enacted the Citizenship Act which had been in force before World War II. It thereby stripped a large part of its own electorate (about one third) of voting rights. As a result, the new parliament (Riigikogu) elected in 1992 was 100% Estonian ethnically.¹⁴⁹ Two 'Russian' parties won 6 seats (out of 101) in the 1995 parliamentary elections. In 1999, 6 seats were won by one 'Russian' party. In 2003 and 2007 neither of the 'Russian' parties were elected to the parliament but in both elections six ethnic Russians who ran as candidates from mainstream parties got elected (compared to 2 in 1999).

MPs who are ethnic non-Estonians (from 'Russian' or mainstream parties) had and have practically no influence over the decision-making process. Up to now, Estonia's main political parties have maintained the consensus concerning the fundamentals of the national ethnic politics, including the politics with respect to such issues as citizenship, language, and migration. The above conclusion stems from a comparative analysis of the government coalition accords since 1992.¹⁵⁰ It should be noted that only once since 1992 has an ethnic non-Estonian become a member of the Government of the Republic of Estonia (as a minister without portfolio).¹⁵¹

According to the Riigikogu Election Act (Article 4) only Estonian citizens have the right to vote and to stand as candidates in parliamentary elections.

Initially the Estonian United People's Party, formed in 1994 on the basis of the Representative Assembly of the Russian-Speaking

Population in Estonia, used to be the most popular formation among the non-Estonian population. It enjoyed the reputation of a respectable party espousing politically moderate views. It was represented in the parliament and in the ruling coalitions of a number of local self-governments including that of the city of Tallinn. However the 'Russian' MPs found themselves in a state of permanent isolation in the national parliament, and the role of the Estonian United People's Party in municipal coalitions was typically limited to that of a minor partner who only occasionally managed to implement measures in the interests of its voters. As a result, the Russian-speaking part of the population grew increasingly disappointed and its belief in the efficiency of the 'Russian' political representation has been evaporating.

The case of the Department of Public Security and Integration, created in Tallinn in 2001 with the help of the Estonian United People's Party and with the goal of supporting local integration projects, had serious consequences. In the autumn of 2001, its heads (members of the Estonian United People's Party) were charged with abuses. The investigation by the Security Police was in its initial phase when the Department was abolished. A new Tallinn ruling coalition showed little enthusiasm for integration affairs, and the Tallinn integration programme developed for the Department was never implemented. Though in 2003 the court ruled that the charges against the Department were based on an unprofessional and politically biased audit, and the accused were fully acquitted,¹⁵² the scandal was blown up by the local media and it took a heavy toll on the electoral performance of 'Russian' parties. Support for them dwindled by the time of the 2003 parliamentary elections compared to 1999. The Estonian United People's Party won 2.2% of the vote (a decrease by a factor of 3) and the Russian Party in Estonia, which was another political force representing ethnic non-Estonians, won only 0.2% (Table 12).

Table 12.
The performance of ‘Russian’ political parties in parliamentary elections

	‘Russian’ parties	% of the vote	Seats in the parliament (out of 101)
1992	Took no part	–	–
1995	“Our Home is Estonia” (the alliance of the Estonian United People’s Party and the Russian Party in Estonia)	5.9	6
1999	The Estonian United People’s Party	6.1	6
	The Russian Party in Estonia	2.0	0
2003	The Estonian United People’s Party	2.2	0
	The Russian Party in Estonia	0.2	0
2007	The Constitutional Party*	1.0	0
	The Russian Party in Estonia	0.2	0

Source: *Estonian Electoral Commission*.

Note: * – the Estonian United People’s Party became the Constitutional Party in 2006

When it transpired during the 2003 elections that the existing ‘Russian’ parties had lost their former electoral support, political activists decided to agree on ‘a single Russian candidate’ in the 2004 European Parliament elections to avoid internal competition. The role was assigned to Georgi Bõstrov who was a member of the Board of the Estonian United People’s Party and mayor of the city of Maardu. His programme was based on social-democratic values. In contrast to the majority of Estonian politicians and officials, Bõstrov favoured greater centralisation in the EU and advocated granting Russian the status of an official language of the EU.

In March 2004, when the agreement on the single candidate had already been reached, the Estonian media reported that police had opened criminal proceedings against Bõstrov because he allegedly sent someone else to take the Estonian language test under his name (passing the test was a prerequisite for occupying a position of a public official). Interestingly the alleged offence

was perpetrated much earlier, on September 5, 2003.¹⁵³ In late May, 2004 the Language Inspectorate officially warned Bõstrov’s headquarters over submitting advertising materials in ‘a foreign language’ by mail and placing bilingual posters in streets in breach of the regulations.¹⁵⁴ The problems were that the mailed materials were in Russian only and the text in Russian in posters was placed above that in Estonian.

Bõstrov garnered 2.7% of the vote in the elections and emerged as the most successful independent and the most successful non-Estonian candidate.¹⁵⁵ He managed to win roughly the same percentage of the vote as two ‘Russian’ party-based lists in the previous parliamentary elections (roughly 15 – 17% of the vote by ethnic non-Estonians).¹⁵⁶ Nevertheless, all of the above was not enough to win a seat.

The last local elections (in cities and rural municipalities) were held in 2005. Only citizens of Estonia and the EU had both the right to vote in them or to stand as candidates. The participation of third country nationals including stateless was limited to the right to vote if they were holders of a permanent residence permit and had lived in the respective municipalities for at least 5 years¹⁵⁷ (the latter requirement was abolished in 2006¹⁵⁸). Thus, most non-citizens could vote but could not be candidates. The election results in the areas of compact minority residence such as Tallinn and major cities of the Ida-Viru county in the North-Eastern part of Estonia (Narva, Sillamäe, Kohtla-Järve) merit close examination. According to the 2000 census, ethnic non-Estonians made up 46%, 95%, 96%, and 82% of the populations of the above cities respectively.¹⁵⁹

It should be noted that the recent years have seen a much lower parliament electoral activity in the predominantly non-Estonian Ida-Viru county than the average across the republic, but not in the case of local elections. Moreover, voters were more active during the local elections in Ida-Viru county in 1993 and 1996 than on the average in Estonia (Table 13).

Table 13.**Electoral activity, % of the number of voters for various regions**

	Ida-Viru county	Estonia
Parliamentary elections		
1992	71.11	67.84
1995	67.19	69.06
1999	57.88	57.43
2003	52.27	58.24
2007	52.99	61.91
Local elections		
1993	65.9	52.6
1996	67.8	52.5
1999	48.2	49.8
2002	50.8	52.5
2005	50.4	47.0

Source: Estonian National Electoral Committee

The elections in Tallinn and the cities in the North-Eastern part of Estonia were won by the Centre Party of Estonia which touted its liberal approach to minorities. Though it could never be credited having had a consistently pro-minority orientation, its leader Edgar Savisaar remains one of the most popular politicians in Estonia largely thanks to the local 'Russian' electorate. He ran in the 2005 and 2002 elections in the Tallinn's predominantly non-Estonian Lasnamäe district. In 2005 Savisaar alone garnered 12% of the vote in Tallinn (9% in 2002).

The success of the Centre Party in country's North-Eastern part, where the support for the party grew from year to year, was indeed impressive. It won 34% in Narva in 1999, 51% in 2002, and 59% in 2005. After the last two elections, the Centre Party won a majority of seats on the town council. The support for Centrists in Sillamäe in 2005 was also wider than in 2002 and reached 49% of the vote or 57% of the seats in the local council. In 2005 in Kohtla-Järve, the Centrists joined the Usaldus alliance which won over 70% of the seats in the local council. Other major 'Estonian' parties also attempted to strengthen their positions in the ranks of the 'Russian' voters, but their efforts met with limited success. The Centre Party even took steps to secure the support

of the minority electorate which – in the Estonian context – entailed serious political risks. For example, in 2004 it signed a cooperation agreement with Russia's pro-presidential United Russia party and this deal antagonised other political forces in Estonia.

The 2005 elections revealed the deepening crisis of the 'Russian' political forces in Estonia. Whereas in 1999 three 'Russian' lists in Tallinn garnered a third of the vote and in 2002 two 'Russian' lists won over 9%, in 2005 the result was below 5% for two 'Russian' lists. The Estonian United People's Party had 3 seats in the former Tallinn city council (5%), but no 'Russian' parties were represented in the one elected in 2005. Not only the support for 'Russian' lists on the whole but also the numbers of votes cast for the best-known representatives of pro-minority forces shrank by the 2005 elections.

In Narva, the local branch of the Russian Party in Estonia took part in the elections in the alliance Linnakodanik and won 5.4% of the vote and 1 seat (3%). Prior to the elections, investigations were opened against the Party's deputy chairperson, Gennadi Afanassjev, for distributing leaflets in which he criticised his political opponents for supporting the Persons Repressed by Occupying Powers Act. The leaflet showed a character looking like Adolf Hitler who pointed to the portraits of the Centre Party leaders saying: "Remember these faces. They will accomplish what we failed to". Charges were pressed by the Security Police for inciting hatred (Article 151(2) of the Penal Code). On September 9, 2005 the Narva branch of the Russian Party publicly accused the Security Police of exerting pressure on the candidates from its alliance.¹⁶⁰

The efforts of a 'Russian' party led by Georgi Böstrov in Maardu, which is not far from Tallinn, can be regarded as a success story. According to the 2000 census, ethnic non-Estonians made up 80% of the population of Maardu. The Estonian United People's Party won 57% of the vote and got 16 seats (76%) in it. The Centre Party won only 14% of seats, and the People's Union 10%. As the example of Maardu shows, there are no definite reasons to conclude that 'Russian' parties are systematically ineffective.

In 2006, the Estonian United People's Party became the Constitutional Party. Over the past years the Security Police has been branding this party as a radical or extremist force with 'ties' to the Russian government.¹⁶¹

Andrei Zarenkov, the party's leader in 2006-2007, used to be active in the Russian civic organisations in Estonia and in the local anti-fascist movement. In 2008, it was decided to establish the Estonian United Left Party on the basis of the Constitutional Party and the Estonian Left Party. One of the reasons which brought the merger about was the outcome of the 2007 elections, in which the Centre Party managed to attract a major percentage of the electorate of the 'Russian' parties. The Constitutional Party won only 1.0% (2.2% in 2003).

b). Public Life

A 2007 poll showed that Russian-speakers were generally less willing to join civic movements than Estonians (20% v. 35%).¹⁶²

Russian-speakers created parallel quasi-representative bodies in the early 1990s to compensate for their lack of representation in the parliament. One of these bodies, the Representative Assembly of the Non-Estonian Population, was officially recognised as a partner for dialogue with the administration. A third of the seats in the Presidential Roundtable on National Minorities were assigned to it.

The creation of the Presidential Roundtable in 1993 was a reaction to the crisis in the Ida-Viru county where the Narva and Sillamäe municipal authorities decided to hold a referendum on autonomy. The conflict threatened to evolve along the lines of the Transdnistria scenario in Moldova. To a large extent, the conflict was sparked by the parliamentary debates on the Aliens Act, which included a 'legalisation' requirement for former Soviet citizens. The leaders of Ida-Viru county were barred from the coming local elections in 1993 on the basis that they did not have Estonian citizenship. The conflict was resolved at the Roundtable by the Ida-Viru leaders and the representatives of embassies and international organisations (the OSCE played an important part in the process). For years the Roundtable remained the main forum for dialogue between the Estonian administration and popular non-Estonian leaders.¹⁶³ In the recent years, however, the Presidential Roundtable stopped playing its role and has not yet convened under the current presidency.

Currently so-called national culture societies are very active. They receive some support from public funds (see detailed information in Estonian

official reports). The administration invariably attempts to use such cultural societies to generate the public support for its minority politics.

The Estonian Chamber of Representatives of National Minorities was created in 2007. Initially its position on the official ethnic politics – especially the Language Act – was critical. The Chamber works actively with the Legal Information Centre for Human Rights which circulates reports and other publications analysing Estonian official ethnic politics. The Security Police has been trying for several years to undermine the reputation of the Centre by publishing distorted or even deliberately untrue information about it in its yearbooks.¹⁶⁴ Since 2004, the Legal Information Centre for Human Rights is the national focal point of the RAXEN network of the European Union Agency for Fundamental Rights.¹⁶⁵ As such, it monitors racism, xenophobia and anti-Semitism in line with the agency's instructions. Besides, since 2004 the Centre has been functioning as a bureau of the ENAR-Estonia. The European Network Against Racism (ENAR) is an EU-wide network of more than 600 organisations working to combat racism in all the EU member states. In 2008 the Centre also became a member of the European Association for the Defence of Human Rights (AEDH).

Ingrian-Finnish and Swedish national cultural autonomies were created in Estonia in 2004 and 2007.

The skinhead movement which emerged in Estonia in the late 1990s showed little interest in political activity and was too small in numbers to exert any considerable political influence. Known attacks by the skinheads against individuals belonging to visible minorities in Estonia have not led to fatalities or serious bodily harm.

A scandal erupted in 2006 when the Dutch Ambassador, Hans Glaubitz, left Estonia because his male partner, a black Cuban, had been the victim of homophobia and racism a number of times.¹⁶⁶

Skinheads and their like should not be confused with local marginal revanchist movements such as the Central Union of Estonian Nationalists which won less than 1% of the vote in 1995 and which has subsequently ceased to exist. Its leader, Tiit Madisson, was sentenced in 1996 for plotting to overthrow the government. Released from jail thanks to an amnesty, he continued his political activities independently.¹⁶⁷ Madisson was the instigator of the 'monuments' war' – the spontaneous

or carefully planned attacks on monuments to Soviet soldiers typically sited at World War II graves which began in 2004. The ‘war of the monuments’ had serious public repercussions in Estonia both among the Estonian and Russian-speaking populations.

The ‘monuments’ war’ was triggered by the Estonian government’s decision to remove a monument built on Madisson’s initiative in Lihula. It consisted of a bronze bas-relief depicting an SS soldier with a machine gun and a dedication tablet reading: “To Estonian men who fought in 1940 – 1945 against Bolshevism and for the restoration of Estonian independence”. In 2005 – 2006, a conflict over a monument to Soviet soldiers in Tallinn’s Tõnismägi Square ceased being an issue of interest to marginal radicals only. Regretfully right-win Estonian political parties started to misuse the issue for their own purposes. Prime Minister Andrus Ansip made statements against the monument which helped to boost the rating of his party. In April 2007, the administration’s decision to relocate the monument met with extremely serious opposition among minorities and led to mass riots in Tallinn and to a deterioration of the inter-ethnic climate in Estonia.¹⁶⁸

The Estonian administration tightened its position on NGOs run by ethnic non-Estonians’ following the April events. Their funding was the first to be affected. For example the Siin association which is one of Estonia’s largest organisations of Russian-speaking young people lost a grant from the Ministry of Education and Research in 2007. The pretext was that an ordinary member of the organisation was charged with planning the mass riots in April 2007 and with having ‘ties’ with the Russian pro-government movement Nashi. The withdrawal of the grant was successfully contested in court but the grant was withdrawn again shortly, now because a ministry’s investigation was declared to have revealed shortcomings in the organisation’s paperwork.¹⁶⁹

In 2006 – 2008 members of Night Watch, an organisation formed in 2006 to protect the monument to Soviet soldiers in Tallinn, said they were harassed by the authorities. The government regards the movement as radical if not extremist. Human rights activist Sergei Seredenko claimed in the spring of 2008, on the basis of materials at his disposal, that “the tendency to persecute the Night Watch emerged immediately upon its creation but recently acquired new features. In

addition to the already traditional surveillance, phone tapping, and e-mail interception, which were passive forms of harassment, there emerged active forms of it too”.¹⁷⁰

In 2008, the leaders of the Night Watch and other individuals were charged with organising the mass riots in April 2007 and put on trial. When it learned about the terms of the indictment, the international human rights organisation ARTICLE 19 called on the Estonian court to either terminate the proceedings or acquit those accused.¹⁷¹ The county court acquitted them on January 5, 2009, concluding that the evidence proved only one fact – that mass riots did take place in the downtown Tallinn on April 26 – 28, 2007.¹⁷² The prosecution’s appeal was dismissed by the district court.

2.2. Freedom of Speech, Freedom of Information, Freedom of Assembly

a). Prosecution for Inciting Hatred

In the context of the freedom of speech and religion the theme of greatest interest is the administration’s implementation of Article 151 of the Penal Code which deals with incitement of hatred and violence (and discrimination since 2006) based on ethnic origin, race, language, religion and so on.

In April 2005, the police opened an investigation when anti-Russian graffiti were painted on the walls of an elevator lobby of an apartment block in Tallinn (Article 151 of the Penal Code).¹⁷³ The perpetrators were never found.

On 9 May 2005, an investigation based on the same Article was opened against the deputy chairperson of the Russian Party in Estonia, Gennadi Afanassjev, for printing and distributing leaflets against the leaders of the Centre Party. From the point of view of the Security Police, the problem stemmed not from the text but from the picture in the leaflet (as discussed above). The premises of Afanassjev and another Russian Party leader were searched and Afanassjev was obliged not to leave the district of his residence. Later the investigation was closed on for technical reasons.¹⁷⁴

Afanassjev's contacts with the leaders of minority parties and organisations including the ethnic Russian MEP for Latvia, Tatjana Ždanoka (Tatiana Zhdanok), are no secret in Estonia. Ždanoka told the Estonian media in October 2005 that she could not organise a roundtable with her political allies in Narva because 14 companies in a row refused to rent out accommodations for the purpose, though initially their consent was secured.¹⁷⁵ Ždanoka was mentioned in a negative context in the annual Security Police report in 2005.¹⁷⁶

In January 2005, a court in Tallinn sentenced an Estonian-speaking individual with an ethnic Russian name to an 8,000 kroons (511 euros) fine for sending SMS-messages with hostile statements concerning Estonians, minorities, and the relations between Estonia and NATO to the SMS-chat of the Starman TV channel.¹⁷⁷ On August 5, 2005 the Tallinn city court sentenced an author of internet comments insulting the blacks and Jews to a 3,000 kroons (192 euros) fine. One of the statements was "Send Jews to the furnaces!" ("Juudid ahju!").¹⁷⁸

On April 10, 2006 the Supreme Court acquitted an individual charged with inciting to hatred (Article 151(2) of the Penal Code). In 1995 – 1998 the son of a well-known Estonian poet, referred to as K., published a paper on the internet styled as an appeal of militant Estonian pagans defeated during the German colonisation in the 13th century. The material included calls for violence against Christians, Jews and democrats. K. was found guilty by a county and district court and sentenced to a large fine. His defence counsel said that a normal individual could not possibly perceive the text as an actual call for action and claimed the investigation was unable to analyse the text in the context of all the materials of the website on which it had been published. The arguments were to a great extent accepted by the Supreme Court and hence K. was acquitted. However, three of the six judges presented dissenting opinions.¹⁷⁹

In June 2006, the Parliament passed amendments¹⁸⁰ to the Penal Code which were supposed to make it easier for law enforcement agencies to investigate crimes in the internet. Article 151 dealing with incitement to hatred on various grounds was changed. It should be regarded as a positive change that the new version of the Article introduced the responsibility of legal entities. Calls for discrimination were also added to the list of punishable offences.

It should, however, be regarded as a negative change that the applicability of the Article 151 was limited to cases where the illegal activities in question resulted at least in danger to the life, health or property of a person. As a result, the Penal Code can no longer operate in investigations into hate speech in the media unless serious consequences have ensued. An explanatory note accompanying the corresponding draft showed that it was one of the original purposes of the amendment to exclude cases where an individual 'merely' expressed his or her opinion publicly.¹⁸¹

Over the recent years, most of the investigations related to Article 151 were opened in connection with hate speech in the internet (see the examples above). The amendments affected the application of the Article considerably and some previous investigations ended up being closed. So in 2004 – 2007 the Police Board opened six proceedings in connection with Article 151(1 in 2004 and 5 in 2005). No new cases were opened after the tailoring of the article in 2006.¹⁸² The Security Police opened two cases in 2005 and one in 2006, but none in 2007.¹⁸³

b). Disagreements over World War II

The possibility of recognising Holocaust denial as a criminal offence has been a theme of public discussions in Estonia, but the idea has been met with little understanding among the population. Politicians also refused to recognise publicly wearing Nazi and Soviet symbols as a criminal offence.

In the spring of 2006, the ultra-right nationalist Tiit Madisson published a book with a revealing title "The Holocaust: the Worst Zionist Lie of the 20th Century".¹⁸⁴ The book was a bestseller in Estonia's largest bookstore network Rahva Raamat on April 3-9, 2006. Negationist theories were also extensively presented in Lembo Tanning's "European Problem... World War II"¹⁸⁵, a book published in March 2006.

The following incident attracted public attention in 2006: on January 27, which is the official day for commemorating the victims of the Holocaust and other crimes against humanity in Estonia, unidentified individuals lit numerous candles at a German military cemetery in Pärnu where many World War I and World War II soldiers are buried.¹⁸⁶

On 21 December 2006, the Russian-language newspaper Pravo i Pravda published an article entitled “Ansiip, Velliste and the New Nazi”, which was illustrated by a collage showing Andrus Ansiip, Mart Laar and a soldier wearing an SS uniform. The two politicians were active proponents of removing the Soviet World War II memorial from Tõnismägi Square in Tallinn. For a long time, the newspaper officially belonged to the Centre Party, but when a scandal erupted as a result of the publication, the Centrists said they had no direct links with the paper and that the party’s symbols had been used without permission. Nevertheless, the editorial board immediately decided to close the newspaper including its internet site. Interestingly, the police and the Security Police discerned no incitement to hatred in the incident.¹⁸⁷

Controversy persists over the support provided by the authorities to Estonian World War II veterans who fought on the German side. The official approach is that such individuals should be regarded as ‘freedom fighters’. In July 2006, the Prime Minister Ansiip said at a convention of World War veterans who had served in the German army or fought in the ranks of the ‘forest brothers’: “Your fight is a heroic deed that must be highly admired now and in the future. Although Estonia’s independent statehood was not restored at the time, your fight played a large role in the ability of the Estonian nation to keep up [its] struggle for freedom throughout the Soviet occupation. As you have said among yourselves: we lost the battle, but we won the war in the end!”¹⁸⁸

On July 4, 2007 the Eesti Express weekly published an account of Minister of Justice Rein Lang’s celebration of his 50th birthday.¹⁸⁹ His guests were invited to a beer restaurant in Tartu, the recommended dress being that in the style of German pubs of the 1930s. The party featured a performance of the play Adolf staged by the Vanemuine Theatre in the autumn of 2006 (based on Hitler’s monologue prior to his suicide). A huge flag with a swastika was used as a decoration. The publication attracted a lot of public attention and was widely commented on by Estonian politicians. In particular it was emphasised that the play Adolf is anti-fascist.

*c). The Events of April 2007*¹⁹⁰

On May 9, 2006 the Estonian administration sanctioned two events near the monument to Soviet soldiers who perished in World

War II, located in Tõnismägi Square in Tallinn: the traditional laying of wreaths to the monument by veterans’ organisations and a picket by its opponents. The picket, which consisted of several people with an Estonian flag and posters saying “Estonian people, do not forget: the soldier occupied our soil and deported our nation!”, stood at the edge of the crowded square for several minutes. The pickets were then pushed to the road and taken away by a police bus. The Estonian-language media coverage of the incident was fairly biased. For example, there were claims (not confirmed by the police) that a ‘Russian mob’ defiled the Estonian flag. A number of rallies were held near the monument during the next several days, both by supporters and opponents of the relocation or destruction of the memorial. Activists for its defence formed the Night Watch organisation. In June 2006 the administration placed a fence around the memorial and dispatched a police patrol to the site. Access to the monument was reopened early in October 2006.

In early 2007 a Protection of War Graves Act was passed by the parliament as the first step towards moving the memorial – widely known as the Bronze Soldier – from Tõnismägi Square. The Act allows relocating military graves and related memorials without the consent of local authorities. A police operation was carried out on the night of 26 April 2007 during which defenders of the monument were expelled from Tõnismägi Square. A tent was built above the monument and the burial site. By the evening a large group of predominantly Russian-speaking people gathered at the square to express their disagreement with the measures taken by the authorities. At some point, the police started dispersing the meeting. It acted harshly and used special equipment against the protesters. They were forced to retreat to nearby streets where a number of acts of vandalism were perpetrated. Early in the morning of 27 April 2007 the monument was moved from Tõnismägi Square in accord with the decision of the Government of the Republic of Estonia. In a few days it was installed at the Tallinn military cemetery.

Riots resumed in the evening of 27 April 2007 in Tallinn and a number of predominantly Russian towns in the North-Eastern part of Estonia. In Tallinn the police isolated entire city blocks and detained large numbers of individuals in streets, mostly Russian-speakers. Detentions continued on April 28. No official bans on visiting the centre of Tallinn were imposed,

and various public attractions in the area remained open. However on 27 April 2007 the media aired recommendations “to stay at home” (they were also sent en masse to e-mail addresses and cell phones).

People were apprehended in a harsh manner. The police used clubs, rubber bullets and plastic strips instead of handcuffs. People were forced to lie on the ground face down. Individuals who contacted Estonian human rights groups reported severe detention conditions in the ‘filtration camps’: people had to sit for hours on concrete floor in uncomfortable positions and with their hands tied. Beatings – in some cases unprovoked – of the detained by guards also took place.

In response to an information request submitted by the people who had been held in the ‘filtration camps’, the police justified their acts by saying that these people had been detained in the course of an operation authorised in accord with the Police Act.¹⁹¹ But the provisions of the Police Act which they quoted do not give them these rights. Thus the administration failed to clarify what was the legal basis for the mass detentions. The Police Act was amended in 2008¹⁹² to legalise the procedures which had already been applied in hundreds of cases in April 2007.

Already on the eve of the unrest, a major Estonian paper reported what it described as ‘suspicious’ meetings of ‘extremist’ leaders of the Night Watch and local Russian politicians with Russian diplomats in city cafes and parks.¹⁹³ The Estonian Foreign Minister, Urmas Paet, specifically drew the attention of foreign journalists to the allegations. The Russian Embassy said that on 25 April 2007, the Russian Ambassador, Nikolay Uspensky had visited the Estonian Ministry of Foreign Affairs to discuss the issue. The Ambassador vigorously rejected the allegations and said that he found the explanations of the Chancellor of the Estonian Ministry of Foreign Affairs ‘insufficient’. He said that Russian diplomats meet representatives of the Russian community in Estonia on a regular basis and that Estonian diplomats in Moscow also use the opportunity for similar meetings.¹⁹⁴ The 2007 Security Police Yearbook stated that the mentioned Russian diplomats were “clean” and had “no special preparation in manipulations”.¹⁹⁵ The same report said that the Security Police “did not ascertain directing the violent events from the side of Russian special services”. Nevertheless, the report claimed that the riots were “provoked from Russia”.¹⁹⁶

All street activities were banned in Tallinn on April 30 – May 11, 2007 as a result of the crisis caused by the relocation of the monument (as ordered by the Police Prefect). Under the circumstances, it became difficult to openly express discontent with the government’s steps. In late April – early May, a part of the Russian-speaking population staged acts of civilian insubordination by driving slowly with sound signals from 12:00 p.m. to 12:20 p.m. The police interpreted the activity as traffic violations and fined the drivers (the fines could reach 3,000 kroons –190 euros) and publicly thanked those who informed it about this type of activity.

An overhaul of the staffs of editorial boards of a number of Russian-language media took place following the April events. For example, the Russian-language Delfi internet portal’s chief and the editor-in-chief of the Russian version of the Linnaleht newspaper were replaced. There is information that the changes were directly linked to the April events.

A poll conducted in June 2007 showed that a considerable percentage of ethnic non-Estonian respondents (in contrast to Estonians) believed that “to a very significant extent” the April crisis bred “the suppression of the freedom of opinion and limitations of democracy” (46%) and “the escalation of police intervention in all spheres of activity” (30%).¹⁹⁷

d). The Media

According to the Language Act (Article 25) when broadcasting (including transmission by television stations or cable networks) audiovisual works (including programmes and advertisements), ‘foreign language’ text shall be accompanied by an adequate translation into Estonian. A translation into Estonian is not required for programmes which are immediately retransmitted, or for language learning programmes, or for the newsreader’s text of originally produced ‘foreign language’ news programmes and of originally produced live ‘foreign language’ programmes. Thus translation is mandatory when a pre-recorded programme is broadcasted. Furthermore, the volume of foreign language news programmes and live foreign language programmes without translations into Estonian shall not exceed 10% of the volume of weekly original production.

In late 2004 – early 2005 the requirement was turned against the Orsent cable channel which is directed towards the Russian-language audience. In September 2004, the Language Inspectorate issued a warning to the channel because monitoring of its programmes had shown violations of Article 25 of the Language Act. It said they had to be eliminated within one month. In December 2004, the Starman cable network, which owned the frequency used by Orsent, cut it off with a reference to the article of the contract requiring compliance with the Estonian legislation. After the situation was raised in the Russian media, Orsent was offered another frequency by Starman in the early 2005.¹⁹⁸ The channel's management regarded the Language Inspectorate's decision as politically motivated.¹⁹⁹

In the early 2008, Estonian prisons were cut off from leading TV channels from Russia. The Ministry of Justice admitted that it had drawn the attention of prison administrations to Article 6 of the Imprisonment Act which lists the objectives of imprisonment (though no official list of 'inappropriate' channels was ever compiled). As the Ministry said, watching channels with content not suited to the objectives of imprisonment objectives – those justifying crimes committed in Estonia or advocating hatred, cruelty, and violence – should be avoided in gaols.²⁰⁰ The changes coincided in time with the opening of the trial of four individuals the administration deemed guilty of organising riots in April 2007 (see Section 2.1.b). In contrast to their Estonian peers, Russian journalists covered the trial from a critical perspective.

A poll conducted in 2007 showed that most ethnic Estonians did not trust Russian Federation and local Russian-language media except for the programmes of Estonian public radio in Russian. It should be noted in this context that most Estonians do not listen to these programmes. As for ethnic non-Estonians, the level of trust in the Russian media – except for newspapers from Russia – was found to be fairly high.²⁰¹

After the April events, Vice Speaker and former Foreign Minister, Kristiina Ojuland, expressed the idea of limiting broadcasts of Russian satellite TV in Estonia. She attempted to drum up the support of certain minority organisations for the purpose. In June 2007, the proposal was supported by one out of three ethnic Estonians, and by one out of seven Russian-speakers.²⁰²

A Tallinn university professor and an expert at the International University Audentes Human Rights Centre, Evhen Tsybulenko, also expressed support for the idea of limiting Russian TV in Estonia. This proposal was commented on vigorously by users of Russian-language news portals, and some of them made derogatory statements about Tsybulenko's Ukrainian ethnic origin. In response, Tsybulenko asked the police to prosecute the authors of the statements for inciting hatred on the basis of ethnicity. He said in a media interview that it was time to put an end to total permissiveness in the internet.²⁰³ His request did not translate into any proceedings, presumably because – according to the new version of the Penal Code – no offence had been perpetrated. (See the considerations regarding the changes in Article 151 of the Penal Code presented above.)

e). The Language of Public Information

For a long time public signs, signposts, advertisements and announcements in Estonia had to be in Estonian only (exceptions were mostly allowed in the interests of foreign tourists). A new version of Article 23(2) of the Language Act entered into force in March 2007.²⁰⁴ It allows adding messages in 'regional versions' of the Estonian and 'foreign languages', requiring that the text in Estonian occupy the first place and be no less visible than the addition. Minority languages in Estonia are regarded as foreign (Article 2 of the Act).

2.3. Freedom of Religion

Article 40 of the Estonian Constitution states that there is no state church in the country. By default, the Lutheran faith is the country's basic religion. A special joint commission for promoting cooperation between the Estonian government and the Estonian Evangelical Lutheran Church was established in 1995.²⁰⁵ Nevertheless the number of Lutherans is currently estimated at 180,000, which is less than in two officially registered Orthodox churches (Table 14).

Table 14.

Numbers of members of various churches according to their own data

Name	1995	2000	2005	2007
The Estonian Evangelical Lutheran Church / Eesti Evangeelne Luterlik Kirik	172,000	177,233	180,000	180,000
The Estonian Apostolic Orthodox Church / Eesti Apostlik-Õigeusu Kirik	10,000	18,000	25,000	about 25,000
The Estonian Orthodox Church of Moscow Patriarchate / Moskva Patriarhaadi Eesti Õigeusu Kirik	-	-	170,000 – 200,000	about 170,000
The Union of Free Evangelical and Baptist Churches of Estonia / Eesti Evangeeliumi Kristlaste ja Baptistide Koguduste Liit	about 6,500	about 6,092	5,952	5,974
The Estonian Conference of Seventh-Day Adventists / Advent Koguduste Eesti Liit	1,997	1,868	1,723	1,711
The United Methodist Church in Estonia / Eesti Metodisti Kirik	1,842	1,880	1,800	1,737
The Estonian Christian Pentecostal Church / Eesti Kristlik Nelipühi Kirik	about 2,500	about 3,500	4,500	4,500
The Charismatic Episcopal Church of Estonia / Eesti Karismaatiline Episkopaalkirik	-	-	300	300
The Roman-Catholic Church in Estonia / Rooma-Katoliku Kirik	about 3,000	3,500	5,745	6,000
The Union of Congregations of Jehovah's Witnesses in Estonia / Eesti Jehoova Tunnistajate Koguduste Liit	2,600	3,846	-	4,248
The Estonian Islam Congregation / Eesti Islami Kogudus	over 10,000	1,467	about 1,400	about 1,400
The House of Taara and Mother Earth People of Maavald / Taarausuliste ja Maausuliste Maavalla Koda	287	about 200	-	-
The Jewish congregation in Estonia / Eesti Juudiusu Kogudus	2,100	80 families	-	about 2,500
The Union of Estonian Old Believer Congregations / Eesti Vanausuliste Koguduste Liit	about 10,000	5,000	-	about 15,000
The Congregation of the Church of Jesus Christ of Latter-Day Saints / Viimse Aja Pühade Jeesuse Kristuse Kiriku Eesti Kogudus (mormonid)	about 300	482	-	803

The Krishna Congregation / Krishna Teadvuse Eesti Kogudus	50	100	-	about 150
The Baha'i Community / Eesti Baha'i Koguduste Liit	85	about 150	-	142

Source: Ministry of the Interior²⁰⁶

a). Christian Orthodox

Though religion is not a major in individual contacts between ethnic Estonians and non-Estonians, the status of the Orthodox Church was a highly politicised issue in the early 1990s. The Estonian government attempted to separate Estonian Orthodox believers from the Moscow Patriarchate, obviously thanks to national security considerations.

After 1991, the local Orthodox Church which belonged to the Moscow Patriarchate was not recognised as the legal successor to the church that existed before World War II. Instead, this status was granted to a group which fled to the West during the war and which was under the authority of the Patriarch in Constantinople. It was allowed to register itself under the name of the pre-war church organisation.²⁰⁷ The legally dubious procedure (the organisation had no episcopal structure as required by law) made it possible for the group to get control over practically all the property which belonged, and de facto continues to belong, to the parishes linked to Moscow. Almost all Orthodox parishes with ethnic Estonian believers switched to Constantinople (in contrast to the 'ethnically Russian' parishes).

After a protracted conflict, the government decided to maintain the status quo. Constantinople transferred the buildings of the 'Moscow' parishes to the state for free, and now the parishes will be renting them from the state for token fees. The Estonian Orthodox Church of Moscow Patriarchate was registered only in 2002.²⁰⁸ The dispute over rights to property continues.

The head of the Estonian Orthodox Church of the Moscow Patriarchate said that he had never received any complaints about discrimination based on religion (apart from the church registration problem).²⁰⁹

There were public discussions concerning the possibility of making Orthodox Easter and Orthodox Christmas official holidays but these never translated into any practical initiatives.

b). Muslim Minority

Estonia is home to a very small Muslim community mainly comprising ethnic Tatars and Azeris (Azerbaijanis). The lifestyle of most Muslims in Estonia – as that of most Christians – is quite secular. The share of religious people among the traditionally Muslim ethnic groups is roughly the same as among the rest of the ethnic non-Estonian population.²¹⁰

A potential inflow of ‘fundamentalist’ Muslims into the country has been regarded with concern both by the government and by experts. The concern is largely shared by the leaders of the Tatar and Azeri communities. Attempts to import ‘radical Islam’ into Estonia were made in the mid-1990s but met with strong opposition from the local Muslim communities. In interviews, newcomers from the Muslim world said that they felt they were being constantly watched by the Estonian security services.²¹¹

At present there are no mosques in Estonia but there do exist Muslim houses of prayer. A plan to build one – and possibly to open a Muslim Centre – was aired in 2000. Though the plan was welcomed by the administration and by the Estonian Union of Churches (an alliance of Christian confessions), the marginal Estonian Christian People’s Party managed to collect 2,000 signatures against the construction of a mosque in Tallinn. The main argument of the opponents of the plan was that the construction of a mosque would stimulate the migration of Muslims to Estonia. The mosque was never built, but this was due to a lack of funds rather than to the protests.

Three government regulations concerning the process of applying for passports and other IDs, and the procedures of issuing residence and work permits, were updated in April 2005. Starting 1 May 2005 applicants were allowed – as an exception from the general rule – to submit applications with photographs with their heads covered.²¹² A 2006 *Eurobarometer* study showed that 50% of Estonian respondents (citizens of Estonia and other EU countries)

considered it acceptable when visible religious symbols were worn at the workplace.²¹³

On April 10, 2006 *Keskus*, a small Estonian paper, reprinted the so-called Dutch cartoons depicting the prophet Muhammad in a manner regarded as offensive by Muslims, but no incidents related to the publication were reported.

c). Other Religious Groups

Adepts of the Taara (Earth) pagan cult – a total of about 1,000 – have complained about being harassed by the administration. They had difficulty registering their organisation. Eventually the corresponding provisions of the Churches and Congregations Act were adjusted to allow the use of titles other than church, parish, and monastery in the process of registering religious organisations.²¹⁴

Several attempts made by the local ‘Satanist’ community to register have been unsuccessful.

2.4. Access to Justice

a). Problems Related to the Language Used by the Justice System

Article 5 of the Courts Act says that judicial proceedings in court must be conducted in Estonian while certain exceptions are possible. In practice the norms concerning the language of court proceedings can obstruct access to justice for a large group of Russian-speakers not fluent in Estonian.

Article 10(2) of the Code of Criminal Procedure says that the assistance of a translator or an interpreter must be ensured for the participants in any proceeding if the parties are not proficient in Estonian.

More questions arise in connection with the new Code of Civil Procedure. Its Article 34(1) allows the involvement of an interpreter or a translator at the request of a participant in the proceeding or at the court’s own initiative. However, if the court is not able to immediately involve an interpreter or translator, the court shall make a ruling whereby the participant in the proceeding needing the assistance of an interpreter or translator is required to find an interpreter, a translator

or a representative proficient in Estonian for himself or herself (Article 34(2)). Furthermore, failure to comply with the demand of the court does not prevent the court from adjudicating the matter. If the plaintiff fails to comply with the demand of the court, the court may refuse to hear the action. The same set of provisions serves as guidance for the administrative court, by virtue of Article 5 of the Code of Administrative Court Procedure. In practice, up to the present, courts have used translators for Russian-speakers.

Difficulties can be faced when complaints and lawsuits are filed, as generally they are not accepted if written in Russian. However, exceptions are often made for those who are imprisoned.

The Chancellor of Justice (ombudsman) has seen no violations of human rights in the rules governing the language of court proceedings. He validates his point of view by referring to the judges' discretion to accept or reject complaints and lawsuits written in languages other than Estonian depending on the specific circumstances of the case.²¹⁵

It is assumed that the poorest categories of the population can obtain assistance in writing complaints and lawsuits on the basis of the State Legal Aid Act. The Law passed in 2004 allows a petition to be submitted to a court in any language but the applicant could be made pay for translation. Article 12(5) was adjusted in 2005 and currently requests can be submitted to court only in Estonian.²¹⁶ Residents and citizens of the EU can also submit documents in English, but no exception was made for Russian which is the native language of almost a third of Estonia's population.

In January, 2008 G. submitted a request for state legal aid to Ida-Viru County Court (the population of the county is predominantly Russian-speaking). The court returned the request on the basis that it did not comply with the language requirements. G. contested the decision in court citing Article 11 of the Universal Declaration of Human Rights which guarantees the availability of all means of defence to the indicted. The case reached the Supreme Court which rejected the case because, under Estonian law, particular rulings of district courts cannot be appealed. Nevertheless, the Supreme Court stressed that G's petition was written in Russian contrary to the State Legal Aid Act. The district court rejected the petition on the basis of a literalistic interpretation of the law regardless of the human rights aspects of the situation. Thus,

*the appeal related to the language requirements in the context of state legal aid led to no results in Estonia.*²¹⁷

b). Complaints about Police Violence in April 2007

The attitude to complaints about police violence in the course of the April 2007 crisis deserve a particular examination, as this was the first time in the history of Estonia since the restoration of its independence that a large group of people in the country encountered a politically motivated denial of access to justice.

The UN Committee against Torture which reviewed Estonia's 4th periodic report at its 39th session in November 2007 expressed concern "at allegations of brutality and excessive use of force by law enforcement personnel, especially with regard to the disturbances that occurred in Tallinn in April 2007, well documented by a detailed compilation of complaints". The Committee noted that "[t]he State party should promptly, thoroughly and impartially investigate all acts of brutality and excessive use of force by law enforcement personnel and bring the perpetrators to justice".²¹⁸

According to the Public Prosecutor's office, some 50 complaints about excessive use of force by police were received. Though eight criminal investigations were initially opened,²¹⁹ all of them were closed subsequently either because there was no proof that a crime had occurred or because it was impossible to identify suspects. Scores of complaints were rejected using a standard set of arguments. Refusals to open investigations were typically based on the following presumptions:²²⁰

- the applicant was an offender and force / special equipment were legally used;
- the applicant was acting in bad faith when he or she complained of the personal injury;
- the use of force by the police always had good reasons;
- any actions committed by the police can be justified by referring to the special conditions in the country at the end of April 2007.

Attention should be paid to the fact that the government responded with no procedural activity whatsoever to dozens of complaints. Nine victims of police brutality have submitted complaints to the European Court of Human Rights.

PART III.

SPECIFIC ISSUES CONCERNING THE REALISATION OF ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

3.1. Education

3.1.1. Legislation

According to Article 37 of the Estonian Constitution, everyone has the right to education and everyone has the right to receive instruction in Estonian. The language of instruction in national minority educational institutions is to be chosen by the educational institution. The Constitution gives no definition of a national minority educational institution, but in practice Russian municipal and state schools are not regarded as such. The only exception is in fact made for a Jewish school in Tallinn where the language of instruction is Russian and a number of classes teach Jewish history, tradition, and culture.

There are no formal legal obstacles in the way of educating minorities, migrants, and refugees in Estonia. However, the speakers of Russian who are not fluent in Estonian can face certain problems in higher education, and Roma and recent immigrants, knowing neither Estonian nor Russian, in basic schools.

Currently education is provided in both Estonian and Russian free of charge in publicly funded preschools and schools. A small number of students are taught in English and Finnish.

The access to higher education in Russian is limited. The curriculum in all state and municipal general education publicly funded schools is the same regardless of the language of instruction. However, Estonian law gives no guarantee that educational opportunities in languages other than Estonian will continue to be available.

In September 2007, Estonia started switching to predominantly Estonian-language instruction in upper secondary schools (10 – 12 grades)

(2007 Reform). The reform is implemented on the basis of the corresponding provisions of the Basic Schools and Upper Secondary Schools Act. When it was passed in 1993, the initial plan was to switch to instruction in Estonian in upper secondary schools by 2000/2001. The law was amended in 1997²²¹ to shift the deadline to 2007/2008. The decision that the transition to the instruction in Estonian would be limited to 60% of the total instruction materialised in the form of a Basic Schools and Upper Secondary Schools Act amendment in 2000.²²² Two years later schools were allowed to request that the language switching be postponed.²²³

No public debates have been ignited in Estonia by the problems related to the wearing of religious symbols in schools. Article 30(1) of the Basic Schools and Upper Secondary Schools Act requires that students obey the school internal rules set by school teachers' councils which may also introduce dress codes. There is no information that the regulations echoed with any concerns in the country's small Muslim community.

Religion-related subjects are taught in Estonian schools in the framework of non-confessional optional programmes.

3.1.2. Preschool and School Education. The 2007 Reform

a). Preschools

Local authorities are responsible for preschools. Both Estonian and Russian preschools are open in the areas where there is a large concentration of Russian-speakers.

Lack of preschool capacities and long waiting-lists are a problem common to many Estonian towns. Russian-speaking parents gladly send their children to Estonian preschools where they can learn the state language in the process of communicating with their peers. In practice, however, non-Estonian families are disadvantaged placing their children in Estonian preschools, because of unannounced administrative barriers. However, in Paldiski the local authority openly set discriminatory rules about admitting children to the local Naerulind preschool. Article 2 of the Rules said that the preschool was open to Estonian-speaking children while others could be placed in it only if the preschool

had vacancies. In 2008 the situation in Paldiski came under the Ombudsman’s scrutiny during which the local authority dropped the discriminatory regulation.²²⁴

b). Schools: Statistics

The number of students in Russian schools has been decreasing annually since the early 1990s. The tendency is attributed to both the overall decrease in the number of Russian-speaking children in Estonia (due to the migration of minorities from the country and the low birth rates among them) and to the reorientation of a part of the non-Estonian population towards education in Estonian. In the autumn of 1999, first-year students of Russian schools made up slightly over 20% of the total number across Estonia, while in 1990 the figure was 41% (28% and 37% in all grades).²²⁵ The tendency is known to persist.

Table 15.
The share of students taught in Russian in full-time schools of general education, %

Year	Estonia	Tallinn
1980	32.5	46.9
1990	37.0	54.2
1991	36.7	54.5
1992	34.9	53.2
1993	33.5	52.4
1994	33.1	51.1
1995	32.3	50.3
1996	31.2	48.9
1997	30.4	47.4
1998	29.3	46.0
1999	28.3	44.7
2000	27.2	43.2
2001	26.2	41.7
2002	25.1	40.5
2003	24.1	38.9
2004	23.1	37.2
2005	21.7	35.1
2006	20.4	33.7
2007	19.9	33.3

Source: Statistics Estonia²²⁶

In the 2006/2007 academic year, the distribution of the numbers of students over the languages of instruction was: Estonian 79.6%, Russian 20.3%, English and Finnish 0.1%. It should be noted that of all students who studied in Russian, 478 studied in the framework of the so-called late immersion in the language environment programme – a large share of the subjects were taught in Estonian.²²⁷

Table 16.
Numbers of students in full-time schools of general education depending on the language of instruction, academic year 2006/2007

Level	Estonian	Russian	English	Finnish	Total
Level 1: grades 1 – 3	28,860	7,252	19	4	36,135
Level 2: grades 4 – 6	32,284	7,545	39	2	39,870
Level 3: grades 7 – 9	41,860	10,007	25	2	51,894
Level 4: upper secondary school – grades 10 – 12	27,585	8,504	36	–	36,125
Total	130,589	33,308	119	8	164,024

Source: Estonian Education Information system 2007

According to the Ministry of Education and Research in the 2007/2008 academic year 6,887 students whose native language was other than Estonian studied in the full-time secondary schools of general education in classes of ‘language immersion’.²²⁸

Judging by the results of mandatory final (state) tests, the academic performance among students of Estonian and other schools was roughly of the same level. Students from Estonian schools had somewhat higher grades in geography, foreign languages, and social studies (Table 17).

Table 17.
The average grades at final (state) tests (secondary schools) depending on the language of instruction, 2007

	Estonian		Russian	
	Value	Standard deviation	Value	Standard deviation
History	66.6	15.9	63.3	20.5
Biology	60.4	17.1	59.2	17.8
Geography	58.8	13.9	47.5	13.9
Physics	71.5	19.6	67.3	21.9
Chemistry	62.1	20.8	64.1	21.2
Mathematics	52.4	17.4	47.6	18.4
Native language	59.4	20.4	59.3	18.4
English	71.9	14.8	62.7	15.2
German	73.3	18.6	61.6	19.1
Social studies	61.8	12.9	50.1	14.2

Source: *The National Examinations and Qualifications Centre*²²⁹

The data supports the hypothesis that over the past several years a large share of Russian-speaking students in Tallinn either switched to Estonian programmes in upper secondary schools (the last *three* years of the school education) or disengaged from the (national) education system. For example, graduates of Russian basic schools (9th year) made up 50.3% of all graduates in Tallinn in 2002 and 42.0% in 2003. In 2005, students who studied in Russian made up 42.1% of upper secondary school graduates (39% in 2006) and 41.1% of vocational school graduates (39.4% in 2006).²³⁰

c). Small Minority Groups in the Education System

According to the 3rd report on Estonia of the European Commission Against Racism and Intolerance the Commission “received reports that in Valga and Tartu some Roma children were sent to schools for mentally handicapped children simply because they did not speak Estonian”.²³¹ No information of the same kind from other sources is available. It is nevertheless well known that only a small fraction of Roma children attend schools. In the 2005/2006 academic year there were only 36 students with Roma ‘home language’ in all Estonian

schools.²³² The number is very small considering that according to the 2000 census there were 542 Roma in Estonia²³³ (unofficial estimates are that the number is three times higher).

To accommodate the interests of students who do not study at school in the languages in which they communicate at home, Estonian schools provide optional programmes in native languages and cultures (as guaranteed by Article 9(3) of the Basic Schools and Upper Secondary Schools Act). An optional programme for Ukrainians is maintained in Sillamüe.

A class for the adaptation of children of recent migrants functioned in the Lilleküla secondary school in 2008.²³⁴

In late 2008 the Estonian education information system registered 16 so-called Sunday schools (private classes where minorities studied their language and culture).²³⁵

d). Language Immersion

According to the Estonian education information system, 17% of the students whose native language was other than Estonian went either to Estonian schools or to classes with the immersion in the language environment (with the instruction predominantly in Estonian) in the 2006/2007 academic year. Data from the same source shows that the same year 3,234 students were enrolled in full or partial language immersion programs.²³⁶

In Estonia, programmes of the above type can be joined already in preschool, in the first grade (early immersion), or in the sixth grade (late immersion). If the study begins in the first grade, all the educational material is typically presented in Estonian throughout the first year at school. In two years the share of subjects taught in Russian begins to increase and finally reaches 50%. In the case of late immersion a third of the instruction is in Estonian in the sixth grade and in the seventh and eighth grades it reaches 3/4 (a quarter are classes of native language and of foreign ones). In the ninth grade approximately 60% of the instruction is in Estonian.²³⁷

The following recommendation was issued in the Second Opinion on Estonia of the Framework Convention Advisory Committee (Article 149): “The authorities should ensure that the immersion models are

not unduly privileged in the funding decisions so as to ensure that the quality of teaching, as well as textbooks and facilities, in other educational models are comparable.” In practice the government generally leaves the choice as to whether or not to join the language immersion programmes to students, though the advantages of getting enrolled in them are actively advertised. School directors tend to attract the most capable students to the immersion classes in order to demonstrate high academic performance. Though the programmes are voluntary, the 2008 – 2013 Integration Strategy includes the ‘plan’ to increase the number of schools involved (to involve 3 – 5 new school and preschools annually).²³⁸ Currently there are language immersion classes in approximately 50% of Russian schools and a third of Russian preschools in Estonia.²³⁹

Active support of the language immersion classes by the central administration in small towns leads to the replacement of Russian classes by the immersion ones, making the students’ parents choose between the latter and Estonian schools. A situation of this type is witnessed in Kehra where those who wish to study in Russian now have to commute to Tallinn. The case drew the attention of the local Russian media.²⁴⁰

e). Russian School Teachers

For a long time there were almost no programmes of training teachers for Russian schools in Estonia. Typically the teachers in the Russian schools are people of senior age. According to the Ministry of Education and Research, as of 2000 1,573 of the 4,402 Russian school teachers were older than 50. 2,992 of them had degrees in pedagogy, and 2,514 – over 15 years of work experience. A 2002 study indicates that there are less than 10% ethnic Estonians among the teachers in Russian schools.²⁴¹

Teachers in Russian schools and preschools, both state and municipal, are frequently screened by the Language Inspectorate. The adequacy of the level of Estonian language requirements for teachers is widely questioned, especially since very few manage to pass the corresponding checks (for example, in 2007 the Inspectorate concluded that 97% of the checked teachers in the schools and preschools

monitored did not know Estonian well enough²⁴²). The monitoring and the expectation of language testing create a tense atmosphere in Russian schools which eventually tells on the quality of instruction.

In 2008 the Basic Schools and Upper Secondary Schools Act and the Vocational Educational Institutions Act were amended²⁴³ to stimulate the inflow of younger teachers into provincial schools. A specialist starting a teaching career in an educational institution outside Tallinn and Tartu can expect to get a start-up bonus. However one of the requirements when applying for such jobs is advanced level certificate of Estonian language proficiency, while only middle level proficiency was required from most Russian school teachers at the time the corresponding legislation was passed.

*The Legal Information Centre for Human Rights asked the Chancellor of Justice to verify whether the norms concerning the start-up bonus violated Article 12 of the Constitution which bans discrimination. The Chancellor did not agree that Russian teachers were being discriminated against. He said that in general, any language requirements for teachers are constitutional as Estonian is the state language. The Estonian language provisions reflect a constitutional value and the Chancellor believes that under certain circumstances they can limit the individual right not to be treated unequally (the non-discrimination principle is not absolute). The start-up bonus is not a human right but a benefit for which special requirements are established.*²⁴⁴

f). Multiculturalism in the School Curriculum

Currently the school curriculum does not reflect to a sufficient extent the multicultural character of Estonian society. The Ministry of Education and Research plans to focus on the problem when drawing up the new school curriculum (it will enter into force in 2010).²⁴⁵

On the whole, the basically natural orientation of the school curriculum towards Estonia translates into Estonian ethnocentrism. In 2002, the Open Society Institute stated that although the 2000 – 2008 integration programme was meant to promote the concept of Estonia as a multicultural society, this was only minimally achieved in the school curriculum.²⁴⁶ The Framework Convention Advisory Committee said

in its second opinion on Estonia that “despite some efforts, studies suggest that the multicultural elements in the curriculum of Estonian schools remain comparatively modest. Moreover, while the teaching of certain minority languages for majority pupils is available in a number of schools, studies show that the importance of studying minority languages is not widely appreciated amongst majority pupils”.²⁴⁷

3.1.3. The Public Opinion and the 2007 Reform

In the 2007/2008 academic year Russian upper secondary schools started to implement the long-planned switching to at least 60% instruction in Estonian. The transition ignited a controversy in the country and it remains a contentious issue.

From the outset, the administration viewed the discussions of the 2007 reform from the angle of national security. The 2004 Security Police Yearbook stated that maintaining ties with the Russian community mainly on the basis of education and culture was Russia’s long-term objective, and that as a result the Russian Embassy in Tallinn urged the local Russian community to oppose the reform and to participate in the corresponding activities.²⁴⁸ The activity of opponents of the reform was also mentioned in other Security Police yearbooks, for example in 2006²⁴⁹. The close surveillance of the opponents of the reform could also be explained by the fact that, in 2003 – 2004, the protests against an analogous reform in Latvia politically mobilised tens of thousands of people and cemented the local Russian community.

Studies related to the 2007 reform were performed in November 2004, 2006, and 2008 for the Ministry of Education and Research. On the eve of the reform’s launch in 2006,²⁵⁰ most Russian school teachers said that switching to teaching most subjects in Estonian was a “very useful” of a “fairly useful” idea. However, the majority of teachers also said that the new arrangement would generate additional workload and stress for students and teachers, and have an adverse impact on academic performance. Only 23% of those who taught in Russian at the time of the study were ready to switch to Estonian (31% in 2004). Interestingly the reform was assessed with greater optimism by directors than by teachers whose daily activities it was going to affect. It should also be noted that the theme is heavily politicised,

and a number of experts criticised the official study from the academic point of view. The survey was based on personal phone interviews and did not allow respondents to remain anonymous: doubts have therefore been expressed about the reliability of this survey results.

A key argument of the opponents of the reform is that Russian schools are largely unprepared for it, a point with which the administration used to agree²⁵¹ to some extent. Importantly, ethnic non-Estonians were also concerned about the preservation of the Russian language and culture (Table 18).

Table 18.

The assessment of the 2007 educational reform by ethnic Estonians and non-Estonians, 2005, %

Opinion about reform	All respondents		Only young respondents (aged below 29)	
	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians
A. Good decision, improves chances for young Russians to manage in Estonia	34	76	30	79
B. I question the decision, young Russians can lose their identity, fluency in Russian and ties to Russian culture	57	9	55	6
No assessment	9	15	15	15
Total	100	100	100	100

Source: Tallinn University Institute of International and Social Studies²⁵²

Largely on the basis of the negative experience gained by Latvia, Estonia adopted a gradualist approach to the reform and decided that as the first step the switch to Estonian should affect the teaching of Estonian literature (starting September 1, 2007), social studies, history, geography, and music. In 2008, the administration de facto postponed the reform until 2011 – by this deadline all schools will have to comply with the 60% requirement.²⁵³ Polls showed that the gentle start of the reform eased tensions over it in society. Unexpectedly for experts,

the percentage of the reform's supporters in the ranks of the Russian population increased in 2008. Nevertheless, the level of 'full' support for it among non-Estonians remained at 11%.

Table 19.

Current Estonian laws provide for the launch of school reform in 2007. Russians-language secondary schools would teach subjects in Estonian. The goal calls for teaching 60% of the subjects in Estonian. What is your attitude? 2007, 2008, %

	Ethnic Estonians		Ethnic Non-Estonians	
	2007	2008	2007	2008
Completely in favour	51	56	7	11
Generally in favour	38	36	24	40
Generally not in favour	5	4	31	26
Completely against	1	1	31	18
Cannot answer	5	3	7	5
Total	100	100	100	100

Source: *Estonian Open Society Institute*²⁵⁴

It is clear that the current Ministry of Education and Research hopes to boost the reform. It was decided in the fall of 2007 that additional support would be provided to the Russian schools who transferred a greater share of their teaching activity to Estonian than that required by the state curriculum (70,000 kroons or 4,473 euros per switched subject).²⁵⁵ A review of the Ministry's forecasts shows that it plans a rapid reduction in the number of Russian school students (much greater than could be reasonably based on the demographic dynamics in Estonia).²⁵⁶ Planning the implementation of the educational reform, the Estonian administration clearly assumes that in the future most ethnic non-Estonians will study in Estonian schools.

Though schools – both Estonian and Russian – are routinely closed in Estonia due to the overall demographic trends, some cases attract a lot of public attention. For example, in 2006 the Tartu city council decided to close the Pushkin Secondary School which was one of the oldest Russian schools in Estonia, founded in the early 20th century by the Russian community.

The plan was to set up the Russian Tartu Lyceum on the basis of the former Pushkin Secondary School and the Slavic Secondary School. Some parents took action against the council's decision to court,²⁵⁷ but it sided with the city council. Interestingly, the decision concerning the Pushkin Secondary School was made after its board of trustees asked twice for permission to postpone the change-over to instruction in Estonian.

There were no other cases when Russian schools in Estonia asked for such delays. Essentially the Estonian administration ignored the recommendation issued by the Framework Convention Advisory Committee: "There is clear need to provide the schools, local authorities and others concerned with more procedural and other guidance on how to invoke the possibility to have a minority language as a language of instruction after 2007. Furthermore, there is a need for the central authorities to take more proactive measures on this matter and to establish a sound approach on how to process future applications and to take eventual decisions in line with the principles of the Framework Convention" (Article 140).

3.1.4. Higher Education in Minority Languages

According to the 2000 census, the overall educational levels among ethnic Estonians and non-Estonians were roughly comparable. The situation has exhibited no significant change since 1989 (Table 20).

Table 20.

Educational levels among ethnic Estonians and non-Estonians for people aged 15 – 69 according to census data of 1989 and 2000, %

Educational levels	1989		2000	
	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians
No basic	17	11	8	7
Basic	24	19	23	18
Secondary	26	31	34	37
Professional secondary	21	25	20	23
Higher	12	14	15	15
Total	100	100	100	100

Source: *Statistics Estonia*²⁵⁸

However, judging by the 2000 census data, ethnic non-Estonians were underrepresented as college and university students: 9% of Estonians aged 15 – 19, 27% aged 20 – 24 and 9% aged 25 – 29 were college and university students, while the corresponding figures for non-Estonians were 9%, 18%, and 5%.²⁵⁹ The difference was even greater for Master of Science and PhD programmes. Among other reasons, the explanation for this lies in the limited opportunities for study in Russian in Estonia.

In the 1993/1994 academic year, 17% of college and university students in Estonia studied predominantly in Russian.²⁶⁰ By 2006/2007 the number had dropped to 10.4% (and 69% of those studied in private colleges). The percentage of students studying in Russian was even lower in the case of Master of Science programmes but somewhat higher in the case of applied higher education programmes (Table 22).

It should be noted that graduates of Russian schools can gain admission to colleges and universities where the instruction is in Estonian. In 2003 – 2005 the academic performance among graduates of Russian upper secondary schools who passed the advanced level category Estonian language proficiency test (full command of spoken and written Estonian) was 74 out of 100.²⁶¹ In 2005, 2,145 graduates of Russian schools (out of 3,552 total) continued their studies, in some cases in Estonian. The same figure for Estonian schools was 5,445 (out of 8,406 total).²⁶²

As of September/August 2005, ethnic non-Estonians were represented to varying degrees among students of various state/public colleges and universities. For example, according to the data supplied by colleges, graduates of Russian schools made up 10% of the students in the Tallinn College of Engineering, the Tartu Aviation Academy, the Estonian Academy of Music and Theatre, and the Estonian Academy of Arts.²⁶³ Graduates of Russian schools made up 80% of the students in the Narva College of Tartu University which, among other professionals, trains specialists for Russian schools and preschools. Nevertheless, even there only 25% of the instruction was in Russian.²⁶⁴ Broader use of Russian at the initial stage of the education and special adaptation programmes was found at two universities in Tallinn – Tallinn University and Tallinn Technical University, where roughly a quarter of students admitted in 2005 were ethnic non-Estonians.²⁶⁵

Table 21.
The number of students depending on college or university legal status and instruction language in the 2006/2007 academic year

Legal status/ Language of instruction	Estonian	English	Russian	Total
Public	40,668	341	1,835	42,844
State	10,833	0	334	11,167
Private	9,123	661	4,972	14,756

Source: Ministry of Education and Research²⁶⁶

Table 22.
Numbers of students depending on instruction language, type of study and college or university legal status in the 2006/2007 academic year

Type of education	Legal status	Students studying in Russian	All students	The percentage of students studying in Russian*
Applied higher	State/public	648	15,087	19.3
	Private	3,917	8,572	
Bachelor programme	State/public	1,448	27,348	7.6
	Private	997	4,964	
Master of Science programme	State/public	72	9,505	1.2
	Private	58	1,149	
PhD Programme	State/public	1	2,071	–
	Private	–	71	
Total in higher education	State/public	2,169	54,011	10.4
	Private	4,972	14,756	

Source: Ministry of Education and Research.²⁶⁷

Note: * – Calculated by authors

*In the autumn of 2007, the idea of creating Catherine College with bachelor programmes in Russian at the public Tallinn University ignited debates in Estonia. The plan met with strong opposition from a number of politicians and philologists. On November 12, 2007 the Senate of the Tallinn University decided to postpone the resolution on the matter indefinitely.*²⁶⁸

*The Minister for Education and Research, Tõnis Lukas, said he would reject the idea because its implementation would not promote the self-identification of local young people but would instead absolve them of the need to study Estonian in schools properly.*²⁶⁹ *On 22 November 2007 some 50 Estonian linguists published an appeal criticising Estonian colleges for offering programmes in English and Russian. They held that the availability of such educational options eroded the status of the Estonian language and the quality of education in Estonian and would in the long run pose a threat to the Estonian language and culture.*²⁷⁰

*On 4 February 2008, a Tallinn University work group proposed a compromise solution at a meeting with such partners as the representatives of the Estonian Language Council, the Language Inspectorate, the Ministry of Education and Research, and the Estonian parliament’s committee for cultural issues.*²⁷¹ *On 11 February 2008, the University’s Senate confirmed a new draft for Catherine College proposing to offer Russian-speaking students special support programmes totalling 40% of the curriculum. There will be no programmes free of charge. The instruction will be predominantly in Russian during the first year, in Russian and Estonian during the second year, and exclusively in Estonian during the final third year.*²⁷²

In 2005, the Framework Convention Advisory Committee stated that “Estonia has continued to provide the possibility for persons belonging to national minorities to devote their first year at university to acquiring proficiency in Estonian, and, in addition to private institutions, state universities have continued to offer some limited programmes in Russian.”²⁷³ Nevertheless, “language difficulties continue to be a serious obstacle in higher education for many persons belonging to national minorities, and this has contributed to the relatively high drop-out rate.”²⁷⁴ It was

recommended that “Estonia should take further measures to encourage and facilitate access of persons belonging to national minorities to higher educational institutions. In this connection, it is important to ensure that increase in the volume of state language instruction in the secondary education is pursued in a manner that does not harm the quality of education in schools attended by persons belonging to national minorities and thereby limit their possibilities to access higher education.”²⁷⁵

3.1.5. Education for Adults. Lifelong Education

Over the past years the level of participation of ethnic non-Estonians in lifelong learning was lower than that of Estonians. This trend is illustrated by the results of 1997 – 2006 studies conducted in the framework of a regular labour force surveys (Table 23).

Table 23.
The participation of the population aged 25 – 64 in lifelong learning; data for the last four weeks at the time of each survey, %

	Ethnic Estonians	Ethnic non-Estonians
1997	5.5	3.1
1998	7.1	4.3
1999	7.5	4.3
2000	7.4	4.2
2001	6.4	3.3
2002	6.5	3.1
2003	8.4	3.4
2004	7.9	3.8
2005	6.9	4.1
2006	7.9	3.8

*Source: Estonian Labour Force Surveys*²⁷⁶

Lack of proficiency in Estonian can limit the continuing education and re-training opportunities which are open to ethnic non-Estonians. The Estonian government has acknowledged the existence of the problem and recently classes in Russian have been offered to the unemployed. Estonian language teaching programmes for adults have been implemented in Estonia in the framework of the general national integration strategy with the help of EU funding.

3.2. Access to Employment

3.2.1. Legislation

According to Article 29 of the Estonian Constitution, an Estonian citizen has the right to choose his or her sphere of activity, profession and place of work freely. Citizens of foreign states and stateless persons who reside in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.

Only Estonian citizens can serve as state and local self-government (municipal) officials. Certain types of positions can also be held by citizens of the EU (Article 14 of the Public Service Act). Third country nationals (citizens of non-EU countries and stateless people) cannot serve as state or municipal officials. Amnesty International finds that “this affects non-citizens and persons belonging to the Russian-speaking linguistic minority negatively in terms of employment opportunities and constitutes indirect discrimination”.²⁷⁷

According to the general rule, citizens of third countries who hold temporary residence permits must obtain work permits to get employed (Articles 13 and 13-1 of the Aliens Act).

There are types of positions that can be held exclusively by Estonian citizens or EU citizens (the overwhelming majority of all non-citizens in Estonia are third country nationals). Some of the examples are:

- a bailiff (Articles 10(1) and 50 of the Bailiffs Act);
- a patent agent (Article 14(1) of the Patent Agents Act);
- a master of an Estonian vessel (Article 3 (1) of the Law of Ship Flag and Registers of Ships Act);
- a harbour master (Article 10(2) of the Ports Act);
- a sworn translator (Articles 3(2) and 12(3) of the Sworn Translators Act);
- a notary (Articles 6(1) of the Notaries Act).

Citizens of the European Economic Zone can also work as harbour masters and masters of Estonian vessels. But only Estonian citizens can work as:

- a person whose responsibilities are related to aviation security (Article 24-3(2) of the Aviation Act);
- an operator of a vessel traffic service (Article 51(4) of the Maritime Safety Act);

- a pilot (Article 58(2) of the Maritime Safety Act);
- a sole proprietor who provides security services, a security officer or a head of in-house guarding units (Article 22(2) of the Security Act).

3.2.2. Ethnic non-Estonians on the Labour Market

a). Unemployment Rate

In the period since the early 2000s till the crisis in 2008, the Estonian labour market situation was generally favourable for all ethnic groups and the unemployment rate remained fairly low. Nevertheless a disparity between the rates of unemployment among ethnic Estonians and non-Estonians – by a factor of two on average – persisted throughout the years. In 2007 the unemployment rates among Estonians and minorities were 3.6% and 6.9% respectively. Individuals aged 15 – 24 faced a much more complicated job market situation than other age groups (Table 24).

Table 24.

Unemployment rates depending on age and ethnic origin, 1997 – 2007, %

Ethnic origin / Age group	1997	2001	2003	2004	2005	2006	2007
Estonians							
15 – 24	11.2	21.8	17.6	17.0	9.5	9.6	8.5
15 – 74	7.8	10.4	7.3	6.4	5.3	4.0	3.6
Non-Estonians							
15 – 24	21.2	22.9	26.0	30.9	29.4	18.5	13.7
15 – 74	13.2	16.8	15.2	15.6	12.9	9.7	6.9

Source: Estonian Labour Force Surveys

The unemployment data according to citizenship status reflect the difficulties experienced by minorities on the labour market. Whereas the unemployment rate among citizens of Estonians in 2007 was 3.9% it reached 8.3% among non-citizens. The rate was lower among the stateless people (8.1%) than among Russian citizens (9.8%). The latter circumstance can be only partially attributed to the high concentration of Russian citizens in the depressed Ida-Viru county located near the Russian border, which

is compactly inhabited by non-Estonians. While the unemployment rate in Tallinn was relatively low (3.5%), it was almost three times higher in the Ida-Viru county (9.4%).²⁷⁸ Nevertheless, unemployment is a serious problem for the non-Estonian population in Tallinn as well. Detailed data on the employment market for ethnic Estonians and non-Estonians can be found in Table 25.

Table 25.
Unemployment rate in Tallinn for people aged 15 – 74 depending on ethnic origin and other traits, 2001 – 2006, %

	2001 – 2003	2004 – 2006
Ethnic Estonians	7.0	3.5
Ethnic non-Estonians	14.8	11.7
...including ethnically non-Estonian Estonian citizens	11.4	8.2
...including ethnic non-Estonians with a good level of command of Estonian*	8.9	7.1

Source: *Estonian Labour Force Surveys*.²⁷⁹

Note: * – Non-Estonians with a good level of command of Estonian are those who said they could write and speak it, plus those who communicated in Estonian at home

Minorities are overrepresented in the low-quality workforce, especially in Tallinn (Table 26).

Table 26.
The share of those belonging to the low-quality work force among ethnic Estonians and non-Estonians aged 15 – 74 depending on place of residence, 2001 – 2006, %

	2001	2002	2003	2004	2005	2006
Tallinn						
Ethnic Estonians	6.5	7.4	7.9	6.8	6.0	5.3
Ethnic non-Estonians	14.5	14.5	14.7	17.0	13.7	11.7
Estonia						
Ethnic Estonians	10.0	10.0	10.3	10.3	9.4	8.6
Ethnic non-Estonians	15.5	14.7	13.9	15.4	13.9	13.3

Source: *Estonian Labour Force Surveys*.²⁸⁰

b). The Estonian Language Factor: Official Requirements

Both the structural transformation of the Estonian economy and the Estonian language proficiency are typically mentioned as the factors responsible for higher unemployment rates among minorities. Certain language requirements are criticised by experts as unbalanced and potentially discriminatory. Compliance with the official language requirements is monitored by the Language Inspectorate which issued 2,400 control acts in 2003, 2,371 in 2004, 2,607 in 2005, 3,225 in 2006 and 3,115 in 2007. In the majority of cases, the Language Inspectorate reported violations by the public and private sector employees. In 2007, 3,029 of the control acts (97%) reflected various violations.²⁸¹

Holding a number of positions in the private and almost all positions in the public sector required language proficiency certificates which could be of three categories (levels) and were earned through examinations which take several hours to sit. In 2005 – 2007 such tests were passed by 50 – 60% of those who took them (Table 27). Since July, 2008 Estonia introduced a six-level system of state language proficiency assessment.²⁸² At the same time the list of professions for which language requirements are set has been broadened (for example, private school teachers were included in it).

Table 27.
State language proficiency test results for various levels, 2005 – June 2008

Level	2005		2006		2007		2008 January – June	
	Passed the exam (%)	Average grade (out of 100)	Passed the exam (%)	Average grade (out of 100)	Passed the exam (%)	Average grade (out of 100)	Passed the exam (%)	Average grade (out of 100)
Basic	57.22	62.60	54.14	61.93	51.21	60.33	44.59	57.72
Middle	52.02	59.87	46.75	58.98	43.45	57.89	33.59	53.58
Advanced	55.40	60.61	56.81	62.44	52.44	61.00	47.95	60.12

Source: *The National Examinations and Qualifications Centre*

The Language Act was amended in 2007 to strengthen the legal status of the Language Inspectorate (so far its authority was mainly defined by various by-laws). The Act empowered the Inspectorate officials to recommend employers to fire employees due to their insufficient language proficiency and to make employees re-take language tests. An employee's failure to take the new appointed test by the due deadline renders his or her state language proficiency certificate invalid. An individual who successfully passed a revised test can be reimbursed within certain limits for the cost of the language courses (Articles 5-2 and 6-2 of the Language Act).

The UN Committee for the Elimination of Racial Discrimination stated in its August 2006 Concluding Observations concerning Estonia: "While the Committee recognises the efforts made by the State party in the field of employment, including the action plans for 2004 – 2007 under the State integration programmes, it remains concerned at the high rate of unemployment among members of minorities, in particular Russian-speaking minorities. The Committee reiterates its previous concern that the scope of the requirement of Estonian language proficiency, including in the private sector, may have a discriminatory effect on the availability of employment to members of this community".²⁸³

The Legal Information Centre for Human Rights (LICHR) says it receives large numbers of complaints about the fact that the official language requirements for the public sphere clearly ignore the Language Act's proportionality principle.

In 2008 human rights activists from LICHR were contacted by Russian-speaking employees of the Statistics Estonia who faced the prospect of being dismissed. They held senior official positions which required advanced level state language proficiency certificates, but they had only the middle level certificates. Nevertheless, the employees have worked successfully in Estonian for years and passed internal evaluations with positive results. Article 5(2) of the Language Act says that officials must have command of Estonian, must be able to understand and must use Estonian at the level which is necessary to perform their service or employment duties.

As for the private sphere, the Act says that requirements should be set in cases where they are needed for the public interest (meaning public

safety, public order, general government, education, health, consumer protection and occupational safety). According to the Language Act, the establishment of requirements concerning proficiency in Estonian should be justified and proportional to the objective sought, and should not distort the nature of the rights which are restricted (Article 2-1(2)).

In practice, Estonian courts encounter complications when petitioners and claimants ask to evaluate the proportionality of the requirements they have to fulfil. In many cases courts undertake the task of assessing the Estonian language proficiency of the parties involved in proceedings (for example, when the legitimacy of dismissing employees for lack of fluency in Estonian is contested). The Language Inspectorate is convinced that in the private sphere employers can demand proficiency beyond the official requirement which constitutes the necessary minimum only.²⁸⁴

In 2008 an individual who contacted the Legal Information Centre for Human Rights drew the attention to an advertisement published by a taxi company inviting applicants for a dispatcher position. One of the prerequisites was "Estonian as the native language". The Centre proved that non-Estonians including non-native fluent speakers of Estonian were generally discriminated in the case. The company eventually changed the advertisement accordingly.

A 2006 nationwide poll showed that only 8% of respondents belonging to minorities with Estonian citizenship, 2% of Russian citizens, and 1% of stateless people needed full command of spoken and written Estonian at their place of work (according to their own assessments, not the officially established requirements). Full command of spoken Estonian plus some command of written Estonian were needed by 25%, 5%, and 55% of individuals belonging to the same categories, and a reasonable command of spoken Estonian plus some extent of command of written Estonian by 26%, 20%, and 22%.²⁸⁵

The official requirements clearly ignore regional differences. An Amnesty International report says that, "[i]n many parts of Estonia, notably the North-Eastern region of Ida-Viru, Estonian is not spoken by the majority of those residing in the region. This means that the Estonian language skills are de facto not necessarily needed in all professions".²⁸⁶

c). The Estonian Language Factor: Labour Market Competition

In 2006, the Ministry of Social Affairs published a Report entitled “Risk Groups on the Labour Market: Non-Estonians”, which presented an extensive analysis of the situation faced by minorities in the employment sphere. Discussing the possibility that the high unemployment rate among minorities is linked to a lack of fluency in Estonian, the experts noted that the importance of proficiency in Estonian varies depending on the region of residence and employment, profession, age, etc. “It may play a less important role in the regions where opportunities to communicate in Estonian are relatively limited. For example, fluency in Estonian does not significantly affect the chances to find a job in Tallinn and the Ida-Viru county, though it does improve prospects for employment in Estonia as a whole. Besides, knowing Estonian gives ethnic non-Estonians a competitive advantage on the labour market over the non-Estonians who do not know it, but a less significant advantage compared to ethnic Estonians. Besides, studying Estonian is found to have a greater positive effect on the situation faced by individuals with a higher educational status”²⁸⁷

The recent data presented in the Estonian Labour Force Studies show that an intermediate level of proficiency in Estonian (the command of spoken Estonian) is not enough to compete with Estonians on the labour market. Minorities need the ability to read and write in Estonian (and/or use Estonian as the language of communication at home) to have equal opportunities in the labour market (Annex, Table B) and to occupy higher positions (Annex, Table G). One should also keep in mind that only a small fraction of ethnic non-Estonians has a good command of Estonian (Annex, Table J).

The situation faced by minorities in Tallinn is even tenser: the population of the city comprises two groups of roughly equal size – ethnic Estonians and non-Estonians, and they are locked in ‘rivalry’. Even a good command of Estonian is not enough to enable ethnic non-Estonians to compete successfully with Estonians on the labour market in Tallinn, both in terms of reducing the risk of being unemployed and also in terms of getting a managerial or specialist position (Annex, Tables E and H). This conclusion applies to all age groups including people aged 20 – 34 (Annex, Table I).

d). Income Levels and Disparity

Minority respondents were asked questions about their jobs and the economic situations of their families in a nationwide survey Prospects for Non-Estonians conducted in the spring of 2006. Most ethnic non-Estonians (60%) said they were satisfied with their jobs. A greater percentage of Estonian and Russian citizens (67% and 61%) than of stateless people (49%) said they were satisfied with their jobs.²⁸⁸ As for the material status of the respondents’ families, positive assessments (“positive” and “rather positive”) were expressed by 66% of Estonian citizens, 55% of Russian citizens, and 49% of stateless people (the corresponding percentages of those who gave negative assessments were 30%, 41%, and 47% respectively).²⁸⁹

According to the Statistics Estonia, disparities in the annual incomes of ethnic Estonians and non-Estonians have persisted over the past several years. In 2004, the average annual income among ethnic Estonians was 60,206 kroons and among non-Estonians 49,092 kroons. In 2007 the figures were 103,872 kroons and 87,798 kroons (Annex, Table L). Disparities between the two groups could also be discerned from the gender perspective.²⁹⁰

According to the 2006 Estonian Social Study ethnic non-Estonians were underrepresented in the higher income quintile comprising 1/5 of the population with the highest incomes (Table 28).

Table 28.
The distribution of ethnic Estonians and non-Estonians over income quintiles for ages 16 and up, 2006, %

	Estonia		Tallinn	
	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians
Lower 20%	19	21	10	16
2d quintile	20	21	14	17
3d quintile	18	23	12	20
4th quintile	21	19	25	25
Upper 20%	22	16	39	22
Total	100	100	100	100

Source: 2006 Estonian Social Study²⁹¹

In 2007 experts from the Tartu University published the results of a study entitled “Why Do Russians Earn So Little: Estonia during the Political and Economic Transition”.²⁹² The authors documented a rise of the “unexplained gap” in the salaries of Estonian and non-Estonian males. While in the early 1990s (at the time of the disintegration of the USSR) there were practically no unexplainable differences, later ethnic Estonians started to earn 10 – 15% more than Russians. The gap manifested itself mainly in different pay for the same work and in unequal returns to education. The unexplainable gap was particularly wide in Tallinn with its largest regional labour market in the country. The ethnic wage gap was equal for young and established workers. In the conclusions the authors of the study Kristian-Olari Leping and Ott Toomet expressed the view that the gap could be attributed to discrimination in the form of entry barriers combined with low-level segregation, and to segregated social networks.

A comparative study of the situation faced on the labour market by young ethnic Estonians and non-Estonians (aged 15 – 24) performed by Statistics Estonia analyst Siim Krusell was published in 2007. Analysing the 2006 data, he arrived at the conclusion that ethnic non-Estonians were in disadvantaged, especially in terms of the pay, unemployment and promotion. Non-Estonians were found to have much lower pay expectations than Estonians and had greater difficulty finding jobs adequate to their level of education. The author concluded that the position of ethnic non-Estonians was akin to that of second and third generation immigrants in a number of European countries.²⁹³

3.2.3. Labour Market Discrimination

Since 2004 the office of the Chancellor of Justice is entitled to organise a special conciliation procedure which can be invoked by victims of unequal treatment by both individuals and private legal entities. In 2004 – 2007, the Chancellor received only one petition for a conciliation procedure which was related to discrimination at work. A Russian-speaking resident of Estonia claimed that he was harassed on the basis of ethnic origin and forced to quit his job after a newspaper article describing the events of April 2007 was illustrated with his photograph.

(He said he did not take part in the events). No resolution on the case followed as the former employer of the individual who submitted the petition refused to take part in the voluntary conciliation procedure.²⁹⁴

In 2007, the labour disputes commissions (a pre-trial institution) received seven complaints from the entire Estonia containing anti-discrimination demands.²⁹⁵ None of the complaints was related to discrimination based on ethnic origin or religion. The situation in 2006 was similar.²⁹⁶

Over the past years, Estonia’s Supreme Court has not dealt with cases of ethnically-based discrimination.²⁹⁷

At the same time a poll conducted in June 2007 showed that a large share of ethnic non-Estonians had witnessed discrimination based on ethnic origin and language, including employment discrimination (Table 29). The same study demonstrated that the majority of ethnic non-Estonians did not believe that the private and public sector employment, earning, and educational opportunities open to them were the equal to those open to Estonians.²⁹⁸

Table 29.

Have you encountered a situation in which an individual was advantaged, was hired, appointed to a position, or materially rewarded based on ethnicity or language? 2007, %

	Sample	Ethnic origin	
		Estonians	Non-Estonians
No answer	0.1	0.1	0.2
Yes, permanently, it is usual	12.3	3.9	29.5
In some cases	15.4	10.6	25.2
Have never encountered but have heard about it	25.1	25.0	25.2
Have never encountered	47.1	60.5	19.9
Total	100.0	100.0	100.0

Source: Saar Poll²⁹⁹

As noted above (Section 1.4.3.c), a 2007 study of unequal treatment showed that the problem is encountered most often in the work sphere. Of all those who had experienced being treated unequally within last three years, 57% said it happened at work.³⁰⁰

ANNEX

to Section 3.2. Access to Employment³⁰¹

Table A.
Ethnic Estonians and non-Estonians depending on labour market status and gender, ages 15 – 74, 2007, %

Ethnic origin/gender	Share in labour force	Employment rate	Unemployment rate
Estonians			
Total	65.5	63.2	3.6
Men	70.2	67.0	4.5
Women	61.3	59.8	2.5
Non-Estonians			
Total	66.1	61.5	6.9
Men	73.8	68.5	7.2
Women	59.6	55.7	6.6

Source: Statistics Estonia, at <http://www.stat.ee> (17.10.2008)

Table B.
Unemployment rate among ethnic non-Estonians depending on the level of the Estonian language proficiency, ages 15 – 74, 2001 – 2006, %

Level of Estonian language proficiency – ethnic Non-Estonians	2001	2002	2003	2004	2005	2006
Elementary	18.7	17.7	17.2	19.6	18.1	13.0
Intermediate	14.4	11.2	12.6	10.3	7.1	5.9
Good	12.1	10.0	11.1	7.8	6.1	5.5
All ethnic non-Estonians	16.8	14.9	15.2	15.6	12.9	9.7
(Ethnic Estonians)	10.4	7.9	7.3	6.4	5.3	4.0

Source: Estonian Labour Force Surveys

Table C.
Unemployment rate among ethnic non-Estonians depending on citizenship status, ages 15 – 74, 2001 – 2006, %

Citizenship – ethnic non-Estonians	2001	2002	2003	2004	2005	2006
Stateless former Soviet citizens ('undefined citizenship')	17.1	17.6	19.0	18.9	14.8	9.7
Citizens of countries other than Estonia	21.6	17.5	15.2	19.0	16.3	12.3
Citizens of Estonia	14.1	11.4	11.9	10.7	10.2	8.4
All ethnic non-Estonians	16.8	14.9	15.2	15.6	12.9	9.7
(Ethnic Estonians)	10.4	7.9	7.3	6.4	5.3	4.0

Source: Estonian Labour Force Surveys

Table D.
Job loss and reemployment rates among the population aged 15 – 74 depending on ethnic origin, 2001 – 2006, %

	2001	2002	2003	2004	2005	2006
<u>Job loss rate</u>						
Ethnic Estonians	3.7	2.5	2.5	2.0	1.5	1.1
Ethnic non-Estonians	5.7	5.2	5.5	4.1	3.6	3.1
<u>Reemployment rate</u>						
Ethnic Estonians	29.7	34.3	38.5	40.0	41.7	50.3
Ethnic non-Estonians	31.7	30.1	33.2	29.6	32.0	36.6

Source: Estonian Labour Force Surveys

Note: Job loss rate is the percentage of the individuals who were unemployed at the time of the study but employed 12 months prior to it.
Reemployment rate is the percentage of the individuals who were employed at the time of the study but unemployed 12 months prior to it.

Table E.

Unemployment rate among the population aged 15 – 74 in Tallinn depending on ethnic origin and other characteristics, 2001 – 2006, %

	2001 – 2003	2004 – 2006
Ethnic non-Estonians with Estonian citizenship	11.4	8.2
Ethnic non-Estonians with a good command of Estonian	8.9	7.1
Ethnic non-Estonians	14.8	11.7
(Ethnic Estonians)	7.0	3.5

Source: Estonian Labour Force Surveys

Table F.

The share of low-quality workforce among ethnic Estonians and non-Estonians aged 15 – 74, according to place of residence, 2001 – 2006, %

	2001	2002	2003	2004	2005	2006
<u>Tallinn</u>						
Ethnic Estonians	6.5	7.4	7.9	6.8	6.0	5.3
Ethnic non-Estonians	14.5	14.5	14.7	17.0	13.7	11.7
<u>Estonia</u>						
Ethnic Estonians	10.0	10.0	10.3	10.3	9.4	8.6
Ethnic non-Estonians	15.5	14.7	13.9	15.4	13.9	13.3

Source: Estonian Labour Force Surveys

Table G.

The share of managers and specialists among ethnic non-Estonians according to proficiency in Estonian, for the population aged 15 – 74, 2001 – 2006, %

Level of Estonian language proficiency – ethnic non-Estonians	2001	2002	2003	2004	2005	2006
Elementary	10.3	13.9	13.1	13.6	12.5	12.5
Intermediate	21.1	23.9	23.0	26.0	25.5	26.3
Good	22.7	27.8	25.7	30.5	29.4	31.1
(All ethnic non-Estonians)	15.0	18.5	17.5	19.3	18.9	19.2
(Ethnic Estonians)	29.3	30.0	29.6	28.7	30.6	31.3

Source: Estonian Labour Force Surveys

Table H.

The share of managers and specialists among ethnic non-Estonians in Tallinn for the population aged 15 – 74, 2001 – 2006, %

	2001 – 2002	2003 – 2004	2005 – 2006
Ethnic non-Estonians with Estonian citizenship	27.5	26.5	28.3
Ethnic non-Estonians with a good command of Estonian	30.9	31.1	32.8
Ethnic non-Estonians	20.1	18.3	22.4
(Ethnic Estonians)	38.8	37.3	40.3

Source: Estonian Labour Force Surveys.

Note: Average data on a biannual basis (2001 – 2002, 2003 – 2004, 2005 – 2006)

Table I.

The share of managers and specialists among ethnic non-Estonians aged 20-34 according to place of residence, 2001 – 2006, %

<u>Tallinn</u>	2001 – 2003	2004 – 2006
Ethnic non-Estonians with Estonian citizenship	23.7	23.7
Ethnic non-Estonians with a good command of Estonian	20.8	26.6
Ethnic non-Estonians	14.6	20.5
(Ethnic Estonians)	35.8	37.8
<u>Estonia</u>		
Ethnic non-Estonians	12.3	16.8
(Ethnic Estonians)	27.0	29.5

Source: Estonian Labour Force Surveys.

Note: Average data on a three-year basis (2001 – 2003, 2004 – 2006)

Table J.

The distribution of ethnic non-Estonians of various age groups over Estonian language proficiency levels and citizenship status, 2006, %

Age	A good command of Estonian – a non-citizen	A good command of Estonian – a citizen of Estonia	An intermediate command of Estonian	An elementary command of Estonian – a citizen of Estonia	An elementary command of Estonian – a non-citizen	Total
15 – 19	12	37	19	15	17	100
20 – 34	8	33	17	12	30	100
35 – 49	6	20	16	17	41	100
50 – 64	4	19	18	12	47	100
65 – 74	3	17	14	14	52	100

Source: Estonian Labour Force Surveys

Table K.

The distributions of ethnic Estonians and non-Estonians over income quintiles and places of residence for ages 16 and up, 2006, %

	Estonia		Tallinn	
	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians
Lower 20%	19	21	10	16
2d quintile	20	21	14	17
3d quintile	18	23	12	20
4th quintile	21	19	25	25
Upper 20%	22	16	39	22
Total	100	100	100	100

Source: 2006 Estonian Social Study.

Note: Income quintile – 1/5 of the population depending on the average annual income. The first quintile comprises 1/5 of the population with the lowest incomes, the second – the next 1/5 of the population, etc.

Table L.

Average annual income depending on ethnic origin and gender, Estonian kroons, 2007

Ethnic group	Men	Women	Total
Estonians	108,578	99,763	103,872
Non-Estonians	91,940	84,487	87,798
Total	103,794	95,090	99,090

Source: Statistics Estonia, at <http://www.stat.ee> (01.08.2009)

Table M.

Rate of membership in trade unions of the population aged 15 – 74 depending on ethnic origin, 2001 – 2006, %

	2001	2002	2003	2004	2005	2006
Trade union members						
Ethnic Estonians	10	11	9	7	8	9
Ethnic non-Estonians	16	15	14	12	12	13
There is a trade union at an enterprise or in an organisation						
Ethnic Estonians	19	19	17	15	16	14
Ethnic non-Estonians	29	26	25	23	21	22

Source: 2006 Estonian Social Study.

Note: In Tables B, E, G, H, I, J:

(a) Ethnic non-Estonians with an elementary command of Estonian are those who said they either do not know Estonian at all or only understand it.

(b) Ethnic non-Estonians with an intermediate command of Estonian are those who said they could either speak Estonian or write and speak it, plus those who communicated in Estonian at home.

(c) Ethnic non-Estonians with a good level of command of Estonian are those who said they could write and speak it, plus those who communicated in Estonian at home. Groups (b) and (c) partially overlap.

3.3. Access to Social Benefits and Welfare

On the whole Estonia has ensured equal access to social benefits, welfare, and services to all residents regardless of citizenship status or type of residence permit. The equal treatment is guaranteed by several laws such as:

- Labour Market Services and Benefits Act (Article 3);
- Social Benefits for Disabled Persons Act (Article 3);
- State Pension Insurance Act (Article 4(1));
- State Family Benefits Act (Article 2(1));
- Health Insurance Act (Article 5(1)).

The social protection of refugees and asylum-seekers is provided in accord with a special Act on Providing International Protection to Aliens. Many types of social benefits and welfare are available to refugees and their family members on a *par* with permanent residents of Estonia (Article 75 of the above Act).

In practice the differences of treatment which are based on citizenship concern victims of Stalinist and Nazi repressions: only individuals who were Estonian citizens or permanent residents of Estonia by 16 June 1940 and who suffered from repressions, can be recognised as illegally repressed in accord with the Persons Repressed by Occupying Powers Act (Article 2(1)). As a result, the Act applies predominantly to Estonian citizens by birth, while the benefits listed in it remain beyond the reach of many other victims of repressions living in Estonia (including those held in concentration camps by Nazi Germany at a minor age) and of many of the people who participated in the clean-up of the accident at the Chernobyl nuclear power station.

As a minor in 1942, N. was compulsorily taken from the Leningrad Oblast and held at a quarantine camp in Estonia. He was forced to work for the Luftwaffe Reval – Laksberg Company. After the liberation in 1944, he remained in Estonia because he had nowhere else to go. He passed a test and gained the Estonian citizenship in 1994. In 2006, the Tallinn Pension Department turned down his application for the status of ‘a person repressed by an occupying power’ with a reference to the above act. N. regarded the decision as discriminatory and attempted to appeal it. As a result, the Tallinn district court ruled that no discrimination had taken place in the case, as the unequal treatment was based on law and pursued a legitimate objective.³⁰² In March 2008, N. filed a complaint with the European Court of Human Rights.

The Police Act presents another example of indirect discrimination against the ethnic non-Estonian population in terms of access to social benefits.

According to amendments to the Police Service Act (valid from July 1, 2004)³⁰³ one year of work for the police counts as three years of employment, but only for investigators who held their positions between March 1991 and September 1994 and who continued to work for the police at the time the amendments were passed. A. worked as an investigator in the early 1990s but left the job some time later. In his complaint, he stated that many ethnic non-Estonians had to do so as they either could not become citizens or failed the Estonian language tests. In A’s opinion, the legislation resulted in indirect discrimination of a group based on the language or ethnic origin. He lost his case at the Tallinn administrative court, and the Tallinn district court rejected his appeal. Among other factors the district court argued that A. had failed to prove that he belonged to the group of ethnic non-Estonians who had to left their jobs for the above reasons. Thus the court avoided the need to probe into the possibility that discrimination had taken place in this case.³⁰⁴

3.4. Access to Housing

In general every resident of Estonia can request social housing and home credits if he or she is in the country legally. There are currently no obstacles based on ethnic origin, citizenship status, social origin, or language proficiency.

Some banks, however, limit access to credits for the holders of temporary residence permits.³⁰⁵ Neither a ban on such limitations nor a permission to introduce them can be found in the special decree of the Governor of the Bank of Estonia.³⁰⁶ As of January 2006, 85% of the residence permits issued in Estonia were permanent.³⁰⁷

a). Housing Conditions and Minorities

The most complete information on the housing conditions of the population of Estonia was collected during the 2000 census. On the whole, the quality of ethnic non-Estonians’ housing conditions was found to be fairly high as most of them settled in the Soviet era in the outskirts of large cities where housing used to be relatively comfortable. According to the 2000 data, 90% of ethnic non-Estonians lived in

apartment blocks built in 1946 – 1990, and 4% in those built in the 1990s (the same figures for ethnic Estonians are 68% and 6%).³⁰⁸ A large share of ethnic Estonians lives in private homes or in farmsteads where residences are not supplied with central heating and gas.

Table 30.
Ethnic Estonians and non-Estonians living in conventional dwellings by comfort characteristics of dwelling, 2000 census, %

Conveniences	Ethnic Estonians	Ethnic non-Estonians
Kitchen or kitchenette	99.0	98.0
Water supply system	83.7	96.0
Sewage disposal system	81.4	95.1
Hot water	64.5	84.6
Bath (shower)	66.2	89.5
Sauna	26.5	4.5
Flush toilet	69.2	93.1
Electricity	99.7	99.7
Gas	33.8	51.2
Central heating	52.2	86.7
Electric heating	8.6	3.0

Source: *Statistics Estonia*³⁰⁹

In 2000, the majority of ethnic non-Estonians inhabited two regions: some 50% lived in Tallinn and roughly a third in the North-Eastern part of the country (Ida-Viru county), predominantly in cities where they comprised the overwhelming majority of the population. Ethnic non-Estonians made up slightly less than 50% of the population of Tallinn. The same non-Estonian population patterns are observed at present.³¹⁰ On the whole, no ethnic or racial segregation in the housing sphere is found in Estonia, nor are there any indications that the situation has changed considerably since the 2000 census. At the same time, it should be noted that in Tallinn ethnic non-Estonians mostly reside in the least prestigious districts (Lasnamäe, Põhja-Tallinn, etc.). To an extent, this situation is explained by the legacy of the planning in

the Soviet-era when federally owned enterprises built housing for their employees in these parts of the city.

The 2006 Estonian Social Study confirmed that, on the whole, the residences of ethnic non-Estonians had more amenities than those of Estonians. However, the percentage of minorities owning large apartments or private residences was much lower than that of ethnic Estonians. On average, minorities live in smaller dwellings (in terms of the number of inhabitants per number of rooms), and the gap is especially wide in Tallinn (Table 31).

Table 31.
Ethnic Estonians and non-Estonians living in conventional dwellings by housing conditions, 2006, %

	Estonia		Tallinn	
	Ethnic Estonians	Ethnic non-Estonians	Ethnic Estonians	Ethnic non-Estonians
Type of dwelling				
Village home (farmstead)	15	1	–	–
Private residence, part of a private residence, a townhouse	30	5	19	2
An apartment	54	93	80	97
Other	1	1	1	1
Total	100	100	100	100
Residential area (square meters per person)				
– under 12	7	9	7	12
– 12,00–23,90	41	57	43	61
– 24,00 and more	52	34	50	27
Total	100	100	100	100
Density				
More than one person per room	30	45	28	49
One person per room	29	33	36	34
Fewer than one person per room	41	22	36	17
Total	100	100	100	100

Source: *2006 Estonian Social Study*³¹¹

b). Tolerance to Neighbours

According to a 2007 study performed by Faktum & Ariko, 23% of respondents would perceive black neighbours negatively and 25% declined to answer the corresponding question. Another question during the poll dealt with ‘concerns’ over neighbours. The list of concerns was topped by the command of the Estonian language, while 10% of the respondents reacted negatively to the skin colour (Table 32).

Table 32.**Concerns over neighbours, %**

They do not speak Estonian	32
They are uneducated	24
A different cultural background	18
A different religion	17
A different skin colour	10
Other	6
Neither of the above is a cause for concern	38

Source: Faktum & Ariko³¹²

Indeed, lack of fluency in Estonian can impede contacts between neighbours. While in many regions of Estonia contacts with people speaking other languages happen all the time, there are very few black people in Estonia. The example presented below is rather typical.

*The chairman of an apartment association’s assembly refused to put M. on the list of candidates for its revision board assuming that M. was not fluent in Estonian. M. regarded this as ethnically based discrimination and filed a complaint with the Chancellor of Justice in 2007. The latter, however, did not open a conciliation procedure since the alleged discriminator expressed no desire to take part in the voluntary process.*³¹³

Often complaints related to residential conditions are voiced by the Roma but no specific studies have been performed in Estonia.

3.5. Access to Health Care System

The relatively small amount of available data concerning the overall situation in the health care system for various ethnic groups suggests that the average health conditions among ethnic Estonians and non-Estonians differ, but not in many respects, and no general tendency can be discerned. Ethnic non-Estonians are in a better situation in terms of some indicators. There is no substantial disparity in access to medical care. Nevertheless minorities are much more exposed to the risks of drug abuse and HIV/AIDS.

a). Overall Data

The study “Health Behaviour among the Estonian Adult Population”, carried out by the National Institute of Health Development a year earlier, was published in 2007.³¹⁴ The corresponding polls are conducted every even year since 1990 in Estonia, Latvia, Lithuania, and Finland and coordinated by the Finnish National Public Health Institute. A survey in Estonia was performed by mail in the spring of 2006 involving 5,000 respondents aged 16 – 64 (simple random sample). Slightly less than 60% of those to whom questionnaires were sent responded (women, elderly people, and residents of rural areas responded more often than others).

The same study showed that ethnic Estonians regarded their health condition as good or sufficiently good more often than ethnic non-Estonians. The lowest indicators were observed among non-Estonian females who reported long-term (chronic) health problems more often than others. The difference between the indicators among minority and Estonian males was less significant.³¹⁵

Ethnic Estonians (especially men) reported inactive lifestyles more often than non-Estonians. There were slightly more overweight people among ethnic non-Estonians, mostly among women. Ethnic Estonian men reported the problem somewhat more often than non-Estonians. Ethnic Estonians reported high stress levels and said that they contemplated suicide during the last year more often. Depression among both ethnic Estonians and minorities is mostly found among women. As for men, depression was relatively more frequent in the 16 – 24 age group among ethnic Estonians and the 35 – 44 age group among non-Estonians.³¹⁶

The percentage of people having no medical insurance was almost twice higher among ethnic non-Estonians than among Estonians (12% and 7%).³¹⁷ The difference probably stemmed from the labour market situation, since in Estonia medical insurance is typically a derivative of the social security tax paid by employers. Ethnic Estonians saw specialised physicians and dentists more often than non-Estonians, but the difference was only slight. General physicians were attended roughly as often by ethnic Estonians as by minorities (non-Estonian men less often than Estonian men, non-Estonian women more often than Estonian women). Ethnic non-Estonians tended to call the paramedics (ambulance) and Estonians their general physicians (family practitioners) more often. Hospitalisation rates among the two groups were roughly the same.³¹⁸

Nevertheless, as the 2005 study commissioned by the Tallinn city government showed, 45% of Russian-speakers and 30% of Estonian-speakers regarded the quality of medical services as ‘poor’ or ‘very poor’.³¹⁹ It takes no additional studies to explain the difference between the above two figures: allegedly the fact that medical personnel do not use Russian was seen as a major problem by a part of the Russian population (the problem is the subject of recurrent discussions in the local media).

Let us return to the 2006 “Health Behaviour among Estonian Adult Population” study. It should be noted that during the year preceding the study, ethnic non-Estonians were diagnosed or sought treatment more often than Estonians for such health problems as elevated blood sugar/diabetes (a difference of over a factor of two), hypertension, myocardial infarction (a difference of a factor of three), arthritis, osteoporosis, and gastric/duodenal ulcer.³²⁰ All of the above health problems are often caused by stress.

A higher percentage of ethnic non-Estonians, both men and women, smoke daily, especially in the 16 – 24 and 25 – 34 age groups. However the number who smoke over 20 cigarettes a day is higher among ethnic Estonians. A greater percentage of Estonians also drank alcoholic beverages several times a week (in all age groups, both among men and women). The percentage of

men consuming over 40g of pure alcohol a week was much higher among ethnic Estonians than among non-Estonians.³²¹ The results possibly reflect the habits of residents of rural areas who are predominantly Estonian.

According to the Statistics Estonia in 2006, the percentage of ethnic non-Estonian women who had (legal) abortions was higher than the percentage of non-Estonian women of the reproductive age (15 – 49). The birth rate among minorities was somewhat lower than among majority members (Table 33). The abortion statistics could be affected by the fact that a greater percentage of ethnic Estonian women live in rural areas.

Table 33.
Birth and abortion statistics, 2006

	All women	Ethnic Estonian women (n)	Ethnic Estonian women (%)
Number of women as of January 1, 2006	725,385	492,372	68
...including women aged 15 – 49	341,530	231,662	68
Live births (by mother's ethnicity)	14,877	10,678	72
...including marital live births	6,212	3,797	61
Legal abortions	9,378	5,720	61
...including women under 15	20	14	70
...including women aged 15 – 19	1,298	908	70

Source: Statistics Estonia, at <http://www.stat.ee> (01.12.2008)

b). Drug Addiction and HIV/AIDS

According to the 2004 “Health Behaviour among Estonian Adult Population” study, one in six ethnic Estonian men and almost one in four non-Estonian men had taken drugs (Table 34). According to the 2006 data ethnic non-Estonian men used cannabis during the year preceding the study somewhat more often than Estonian men. Estonian women used cannabis more often than non-Estonian.³²²

Table 34.
Drug use (including trying drugs), 2004, %

	Ethnic Estonians						Ethnic Non-Estonians					
	Age											
	16 – 24	25 – 34	35 – 44	44 – 54	55 – 64	Total	16 – 24	25 – 34	35 – 44	44 – 54	55 – 64	Total
Men	34.4	24.3	12.4	2.9	1.2	15.8	39.6	39.5	15.1	11.2	0.0	23.4
Women	17.8	9.5	2.3	0.4	0.4	5.8	26.2	10.9	3.7	0.0	0.0	7.3
Total						10.2						13.9

Source: National Institute of Health Development³²³

The 2005 report of the national Reitox focus group mentions 57 lethal cases directly linked to drug use (only four of the people who died were ethnic Estonian). On the whole the category most vulnerable to drug use consists of men aged 20 – 29 who are ethnic Russians and who reside in Tallinn or in the cities of the North-Eastern part of Estonia.³²⁴

The HIV/AIDS epidemic began in Estonia in 2000 and was mainly attributed to intravenous drug use. According to the Ministry of Social Affairs data based on the statistics accumulated by anonymous consultancies in 2001, some 90% of the new HIV cases were observed among the users of intravenous drugs. The percentage decreased to 44% by 2005 while the sexual transmission of HIV became increasingly frequent.³²⁵

The national HIV/AIDS prevention programme for 2002 – 2006 (adopted in 2002)³²⁶ stated that 98% of the intravenous drug users in Estonia were Russian-speakers, 86% of them males. 62% of the drug users with over 2 years of experience were under 25. Most of the AIDS cases were registered in Tallinn and the North-Eastern part of Estonia, the two regions with a considerable / predominantly minority population.³²⁷

A study HIV/AIDS-related Knowledge, Attitudes and Behaviour of Young People in Estonia was performed in 2005. It showed that young ethnic Estonians were more aware of how HIV is transmitted (except for the age group 19 – 24) while Russian-speaking school students practiced a more liberal sexual conduct than their Estonian peers.³²⁸ According to the 2006 “Health Behaviour among Estonian Adult Population” study,

54% of ethnic non-Estonian men and 68% of non-Estonian women never used condoms (the same figures for Estonians were 30% and 50%). The figures were much lower among younger people, especially men.³²⁹

There is information that the proliferation of HIV/AIDS (as well as hepatitis and tuberculosis) is a serious problem in Estonian jails. It can have an ethnic aspect as ethnic non-Estonians make up the majority of convicts in Estonia (58% in the early 2008).³³⁰

c). The Problem of the Use of the Minority Language

It is well-known that a large part of the Russian-speaking population is not fluent in the official language. From the legal standpoint, however, the health care institutions do not have to provide services in Russian or in other minority languages. This situation breeds conflicts, examples of which can be found in human rights reports.³³¹

Language-related difficulties are also encountered because all instructions accompanying medications must be translated into Estonian only. There is no mandatory translation into Russian. The Tallinn city government has acknowledged the problem and commissioned the translations of the instructions for the most widely used medicines for free distribution in city pharmacies.³³²

RECOMMENDATIONS

General Recommendations

- It should not be in the official definition of ‘a national minority’ that only citizens of Estonia can be recognised as members of a national minority.
- A law on the rights of national minorities based on international minority rights standards, and particularly on the Framework Convention for the Protection of National Minorities, should be passed.
- Sufficient funding for free Estonian language classes should be guaranteed to improve the access of minorities to citizenship and the labour market, as well as in order to promote their integration into political and social life.

- Training of police officers, prosecutor's office employees, and court staff related to human rights, tolerance, and non-discrimination should be organised.

Promotion of Tolerance

- Active support should be given to projects promoting tolerance towards new immigrants and visible minorities in Estonian society.
- Measures aimed at building trust between the Estonian-speaking majority and the Russian-speaking minority should be actively supported.
- Criminal charges for the incitement of hatred and especially for the use of hate speech in the media should be strengthened.
- Awareness of the cultural, historical, linguistic, and religious diversity in Estonia should be promoted both among the majority of the population and minorities.
- Inter-religious dialogue in the Estonian society should be encouraged.

Citizenship and Migration

- Citizenship should be extended without tests to individuals who were born in Estonia, or who graduated from schools and colleges in the country, as well as to older people.
- A differentiated approach to individuals belonging to the groups currently barred from Estonian citizenship should be practised.
- The norms concerning the family reunion should be subjected to monitoring, and the corresponding rules for the members of families of Estonian citizens and the permanent residents of Estonia should be simplified.
- Language requirements related to applications for the status of a long-term resident of the EC should be abolished.
- There should be a flexible approach to the legalisation of aliens having no valid residence permits and to the placing of names of foreign citizens in the Schengen Information System (SIS) database.

Participation in Political and Public Life

- Greater involvement in political life of third country nationals will be ensured by granting them the right to vote in European elections and the right to stand as candidates in local elections.
- Control over the intervention of the Estonian security services into the political and public life of the minorities should be tightened.

Struggle against Discrimination

- Serious efforts should be made to raise public awareness of the new Equal Treatment Act and the authority of the Commissioner for Gender Equality and Equal Treatment.
- The authority of the Chancellor of Justice in the area of equal treatment should be broadened.
- Sociological monitoring of the population's views, perceptions, and experiences concerning unequal treatment should continue.

Language Politics

- Constitutional and legislative guarantees of the use of minority languages in the regions where there is a dense population of minorities should be strictly observed. Consideration should be given to broadening the guarantees currently offered.
- Minority languages such as Russian should be supported whenever measures are taken which are aimed at supporting the state (official) language.
- The current obstacles to the use of parallel place names in Russian and other languages should be removed in regions traditionally inhabited by minorities.
- The current language requirements for access to justice should be reassessed. Convicts from minorities should have the right to use their native language in contacts with the administration. The right to file petitions for state legal aid in Russian, if not in other languages too, should be guaranteed by law.
- Language quotas for private TV channels should be abolished.

Education

- The current fixed proportions of instruction in different languages in upper secondary schools should be abolished, and the balance between instruction in various languages should be left to the discretion of the administrations of educational institutions.
- The system of training teachers for Russian schools needs to be developed.
- Specific language requirements for teachers applying for start-up bonuses should be abolished.
- Greater attention should be paid to minority groups' history and cultures, as well as to multiculturalism in general, in the school curricula and in teacher training.
- Supervision should ensure that students join language immersion programmes exclusively on the basis of their own and / or their parents' decisions, and the option of studying in Russian should be preserved under all circumstances.
- Schoolchildren who study in the language other than their native language, or that in which they communicate at home, need greater attention, psychological assistance, and instructional support.
- Equal educational opportunities including those in Russian should be guaranteed to individuals from minorities in higher education establishments.
- Continuing and lifelong education, including in Russian, requires greater state funding.

Labour Market

- The language-related legislation regulating the labour market should be adjusted to comply with the proportionality principle, and to take into account the specific features of the regions.
- The state should support efforts aimed at eradicating discrimination in the labour market based on race, ethnic origin, and language.
- An independent monitoring of the activities of the Language Inspectorate is necessary.

Other Social and Economic Rights

- The scope of the Persons Repressed by Occupational Regimes Act should be broadened to make it possible for all permanent residents of Estonia to apply for the status.
- A balanced housing policy should be pursued and the accessibility of housing – especially for vulnerable minority groups – should be monitored.
- The medical care system and pharmacies should take into account the linguistic diversity of Estonian society.
- Further struggle against HIV/AIDS and drug abuse should fully take into account the ethnic dimension of the problem.

ANNEX

The list of Estonian acts mentioned in the report

In English	In Estonian	References to official publications*
Act on Estonian Language Requirements for Applicants for Citizenship (not in force)	<i>Kodakondsuse taotlejatele esitatavate eesti keele tundmise nõuete seadus</i>	RT I 1993, 11, 171
Act on Granting International Protection to Aliens	<i>Välismaalasele rahvusvahelise kaitse andmise seadus</i>	RT I 2006, 2, 3
Aliens Act	<i>Välismaalaste seadus</i>	RT I 1993, 44, 637; RT I 1999, 50, 548; RT I 2004, 58, 410
Aviation Act	<i>Lenndusseadus</i>	RT I 1999, 26, 376
Bailiffs Act	<i>Kohtutäituri seadus</i>	RT I 2001, 16, 69
Basic Schools and Upper Secondary Schools Act	<i>Põhikooli- ja Gümnaasiumiseadus</i>	RT I 1993, 63, 892; RT I 1999, 42, 497
Chancellor of Justice Act	<i>Õiguskantsleri seadus</i>	RT I 1999, 29, 406
Churches and Congregations Act	<i>Kirikute ja koguduste seadus</i>	RT I 2002, 24, 135
Citizen of European Union Act	<i>Euroopa Liidu kodaniku seadus</i>	RT I 2006, 26, 191
Citizenship Act	<i>Kodakondsuse seadus</i>	RT I 1995, 12, 122

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In English	In Estonian	References to official publications*
Citizenship Act (1938/1992; not in force)	<i>Kodakondsuse seadus</i>	RT, 1992, 7, 109
Code of Administrative Court Procedure	<i>Halduskohtumenetluse seadustik</i>	RT I 1999, 31, 425
Code of Civil Procedure	<i>Tsiviilkohtumenetluse seadustik</i>	RT I 2005, 26, 197; RT I 2005, 49, 395
Code of Criminal Procedure	<i>Kriminaalmenetluse seadustik</i>	RT I 2003, 27, 166; RT I 2004, 65, 456; RT I 2006, 45, 332
The Constitution of the Republic of Estonia	<i>Eesti Vabariigi põhiseadus</i>	RT 1992, 26, 349; RT I 2007, 43, 311
Courts Act	<i>Kohtute seadus</i>	RT I 2002, 64, 390
Employment Contracts Act	<i>Eesti Vabariigi töölepingu seadus</i>	RT 1992, 15/16, 241
Equal Treatment Act	<i>Võrdse kohtlemise seadus</i>	RT I 2008, 56, 315
European Parliament Election Act	<i>Euroopa Parlamendi valimise seadus</i>	RT I 2003, 4, 22
Framework Convention for the Protection of National Minorities Ratification Act	<i>Vähemusrahvuste kaitse raamkonventsiooni ratifitseerimise seadus</i>	RT II 1996, 40, 154
Gender Equality Act	<i>Soolise võrdõiguslikkuse seadus</i>	RT I 2004, 27, 181
Health Insurance Act	<i>Ravikindlustuse seadus</i>	RT I 2002, 62, 377
Imprisonment Act	<i>Vangistuseseadus</i>	RT I 2000, 58, 376; RT I 2002, 84, 492
Labour Market Services and Benefits Act	<i>Tööturuteenuste ja -toetuste seadus</i>	RT I 2005, 54, 430
Language Act	<i>Keeleseadus</i>	RT I 1995, 23, 334
Local Government Council Election Act	<i>Kohaliku omavalitsuse volikogu valimise seadus</i>	RT I 2002, 36, 220
Local Government Organisation Act	<i>Kohaliku omavalitsuse korralduse seadus</i>	RT I 1993, 37, 558; RT I 1999, 82, 755
Law of Ship Flag and Registers of Ships Act	<i>Laeva lipuõiguse ja laevaregistrise seadus</i>	RT I 1998, 23, 321
Maritime Safety Act	<i>Meresõiduohutuse seadus</i>	RT I 2002, 1, 1
Notaries Act	<i>Notariaadiseadus</i>	RT I 2000, 104, 684
National Minorities Cultural Autonomy Act	<i>Vähemusrahvuse kultuuriautonomiamise seadus</i>	RT I 1993, 71, 1001
Obligation to Leave and Prohibition on Entry Act	<i>Väljasõidukohustuse ja sissesõidukeelu seadus</i>	RT I 1998, 98/99, 1575; RT I 2001, 68, 407

Estonia

In English	In Estonian	References to official publications*
Patent Agents Act	<i>Patendivoliniku seadus</i>	RT I 2001, 27, 151
Penal Code	<i>Karistuseseadustik</i>	RT I 2001, 61, 364; RT I 2002, 86, 504; RT I 2007, 31, 187
Persons Repressed by Occupying Powers Act	<i>Okupatsioonirežiimide poolt represseeritud isiku seadus</i>	RT I 2003, 88, 589
Place Names Act	<i>Kohanimeseadus</i>	RT I 2003, 73, 485
Police Act	<i>Politseiseadus</i>	RT 1990, 10, 113
Police Service Act	<i>Politseiteenistuse seadus</i>	RT I 1998, 50, 753
Ports Act	<i>Sadamaseadus</i>	RT I 2009, 37, 251
Protection of War Graves Act	<i>Sõjahaudade kaitse seadus</i>	RT I 2007, 4, 21
Public Service Act	<i>Avaliku teenistuse seadus</i>	RT I 1995, 16, 228; RT I 1999, 7, 112
Riigikogu Election Act	<i>Riigikogu valimise seadus</i>	RT I 2002, 57, 355
Security Act	<i>Turvaseadus</i>	RT I 2003, 68, 461
Social Benefits for Disabled Persons Act	<i>Puuetega inimeste sotsiaaltoetuste seadus</i>	RT I 1999, 16, 273; RT I 2002, 39, 245
State Family Benefits Act	<i>Riiklike peretoetuste seadus</i>	RT I 2001, 95, 587
State Legal Aid Act	<i>Riigi õigusabi seadus</i>	RT I 2004, 56, 403
State Pension Insurance Act	<i>Riikliku pensionikindlustuse seadus</i>	RT I 2001, 100, 648
Sworn Translators Act	<i>Vandetõlgi seadus</i>	RT I 2001, 16, 70
Vocational Educational Institutions Act	<i>Kutseõppeasutuse seadus</i>	RT I 1998, 64/65, 1007; RT I 2001, 68, 406

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- ¹⁵ 2000 Population and Housing Census: Education and Religion, IV, Tallinn: Statistical Office of Estonia, 2002. Table 92.
- ¹⁶ Ibid. Table G.
- ¹⁷ Citizenship and Migration Board, at <http://www.mig.ee> (01.03.2009).
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- ³⁶ *Ibid.* Para. 10.
- ³⁷ *M. Heidmets* (ed.) *Vene küsimus ja Eesti valikud* (The Russian Issue and the Challenges Facing Estonia), Tallinn: TPÜ Kirjastus, 1998. P. 17.
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- ⁵³ *Riigi Teataja*, I 2000, no. 54, art. 357.
- ⁵⁴ *Riigi Teataja*, I 2002, no. 6, art. 24.
- ⁵⁵ *Riigi Teataja*, I 2008, no. 43, art. 245.
- ⁵⁶ Supreme Court Administrative Chamber judgement, October 20, 2008, case 3-3-1-42-08, published in *Riigi Teataja*, III 2008, no. 42, art. 288. The case involved an individual who worked as the captain of a vessel sailing under the flag of a country other than Estonia.
- ⁵⁷ *Ibid.*, Para. 28.
- ⁵⁸ *Riigi Teataja*, I 1998, no. 111, art. 1827.
- ⁵⁹ *Riigi Teataja*, I 2003, no. 82, art. 550.
- ⁶⁰ *L. Kalev*. Multiple and European Union Citizenship as Challenges to Estonian Citizenship Policies: Abstract, Tallinn, 2006. P. 24.
- ⁶¹ *Ibid.*
- ⁶² *K. Hallik*. Citizenship and Political Inclusion // Integration of Estonian Society: Monitoring 2005, Tallinn: Mitte-eestlaste Integratsiooni Sihtasutus, 2006. P. [68-69]. Available at <http://www.meis.ee/book.php?ID=95> (01.02.2009).

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- ⁶⁴ Concluding observations of the Committee on the Elimination of Racial Discrimination: Estonia, 69th Session, 19 October 2006, CERD/C/EST/CO/7, Para. 15.
- ⁶⁵ *Vjatseslav Borzov v. Estonia*. CCPR/C/81/D/1136/2002. UN Human Rights Committee (HRC). 25 August 2004.
- ⁶⁶ Supreme Court General Assembly judgement, January 3, 2008, case 3-3-1-101-06, published in *Riigi Teataja*, III 2008, no. 3, art. 23. English translation available at <http://www.nc.ee/?id=889> (01.02.2009).
- ⁶⁷ BNS (news agency), May 6, 2003.
- ⁶⁸ The last Soviet census data (1989): 2000 Population and Housing Census: Citizenship... II. Table 9.
- ⁶⁹ The first version of the Aliens Act defined an alien as an individual who was either a citizen of another country or 'recognised' as stateless. To avoid the divergence of interpretations in the absence of an established procedure of the recognition of statelessness, the current version of the Aliens Act defines an alien as someone who is not an Estonian citizen (Article 3(1)).
- ⁷⁰ Supreme Soviet Decision on the application of the Citizenship Act. Published in *Riigi Teataja*, 1992, no. 7, art. 109.
- ⁷¹ Citizenship and Migration Board. Yearbook 2006. P. 13.
- ⁷² 2000 Population and Housing Census: Citizenship... II. Table 2.
- ⁷³ *Ibid.* Table 51.
- ⁷⁴ 2000 Population and Housing Census: Place of Birth and Migration, III, Tallinn: Statistical Office of Estonia, 2002. Table 2.
- ⁷⁵ 2000 Population and Housing Census: Citizenship... II. Table 3.
- ⁷⁶ Citizenship and Migration Board, at <http://www.mig.ee> (01.03.2009).
- ⁷⁷ Population Registry data are available at the website of the Ministry of Foreign Affairs, at <http://www.vm.ee> (07.03.2009).
- ⁷⁸ 2000 Population and Housing Census: Citizenship... II. Table 42.
- ⁷⁹ *Ibid.*
- ⁸⁰ Including 23 Estonian citizens who acquired Russian citizenship in 2003 – 2006. Letter of the Consulate Department of the Russian Embassy in Estonia no. 273 of March 12, 2007. Available in the authors' archive.
- ⁸¹ Russian Embassy in Estonia, press release on Russian citizenship statistics, March 25, 2008. Available in Russian at <http://www.rusemb.ee> (01.12.2008).
- ⁸² *Ibid.*
- ⁸³ Migration, Tallinn: Statistics Estonia, 2009. P. 62.
- ⁸⁴ *Ibid.* P. 64.

- ⁸⁵ *Faktum & Ariko*. Eesti elanike teadlikkus ja hoiakud pagulasteema küsimustes. Uuringutulemuste kokkuvõte (The Level of Awareness and the Attitude of Estonian Residents to Refugees. Summary of the Research Results), Tallinn, 2007. P. 22.
- ⁸⁶ Mitte-eestlaste perspektiivid: Elanikkonna küsitlus, kevad 2006 (Prospects for non-Estonians, Poll, Spring 2006), Tallinn: Saar Poll, 2006. Pp. 28, 30.
- ⁸⁷ Government regulation no. 16, January 16, 1996. Published in Riigi Teataja, I 1996, no. 5, art. 100.
- ⁸⁸ Supreme Court Administrative Chamber judgement, May 18, 2000, case no. 3-3-1-11-00, published in Riigi Teataja, III 2000, 14, 149 (the Ushakova case).
- ⁸⁹ Citizenship and Migration Board, at <http://www.mig.ee> (01.12.2008).
- ⁹⁰ Legal Information Centre for Human Rights database (01.12.2008).
- ⁹¹ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents. Riigi Teataja, I 2006, no. 21, art. 159.
- ⁹² Citizenship and Migration Board. Yearbook 2006, Tallinn, 2006. P. 23.
- ⁹³ Act on Amendments to the Aliens Act and other Corresponding Acts, Article 17(2), Riigi Teataja, I 2006, no. 21, art. 159.
- ⁹⁴ Letter of the Citizenship and Migration Board no. 15.3-10/44371-1 of September 21, 2007.
- ⁹⁵ OSCE Representative to Estonian Commission on Military Pensioners, Activity Report 10 May – 26 November 2003, Vienna, 28 November 2003.
- ⁹⁶ Agreement between the Republic of Estonia and the Russian Federation on social guarantees to pensioners of the Armed Forces of the Russian Federation in the territory of the Republic of Estonia. Published in Riigi Teataja, II 1995, no. 46, art. 203.
- ⁹⁷ Supreme Court Administrative Chamber judgement, October 24, 2002, case no. 3-3-1-43-02, published in Riigi Teataja, III 2002, no. 28, art. 310.
- ⁹⁸ Riigi Teataja, I 2004, no. 2, art. 2.
- ⁹⁹ Supreme Court Administrative Chamber judgement, March 18, 2003, case no. 3-3-1-12-03, published in Riigi Teataja, III 2003, no. 9, art. 86.
- ¹⁰⁰ Nikolay Mikolenko was a client of the Legal Information Centre for Human Rights. Legal Information Centre for Human Rights database (01.12.2008).
- ¹⁰¹ Supreme Court Administrative Chamber judgement, November 13, 2006, case 3-3-1-45-06. Para. 10. Published in Riigi Teataja, III 2006, no. 42, art. 358.
- ¹⁰² Riigi Teataja, I 2003, no. 4, art. 21.
- ¹⁰³ Riigi Teataja, I 2007, no. 62, art. 394.
- ¹⁰⁴ Currently the Schengen zone comprises Switzerland, Norway, Iceland and all the EU countries except for UK, Ireland, Cyprus, Bulgaria, and Romania.
- ¹⁰⁵ Letter of the Russian Embassy in Estonia no. 3064 of November 27, 2007. Available in the authors' archive.
- ¹⁰⁶ For example, Pro-Kremlin youth vent anger on Europeans // "Russia Today" (TV channel), January 30, 2008.

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- ¹⁰⁹ Supreme Court Constitutional Review Chamber judgement, April 3, 2002, case no. 3-4-1-2-02. Para. 17. Published in Riigi Teataja, III 2002, no. 11, art. 108. English text available at <http://www.nc.ee/?id=433> (01.12.2008).
- ¹¹⁰ Supreme Court General Assembly judgement, January 27, 2005, case no. 3-4-1-2-05. Para. 40. Published in RT III 2005, no. 24, art. 248. English text available at <http://www.nc.ee/?id=382> (01.12.2008).
- ¹¹¹ Supreme Court Constitutional Review Chamber judgement, January 21, 2004, case no. 3-4-1-7-03. Para. 39. Published in Riigi Teataja, III 2004, no. 5, art. 45. English text available at <http://www.nc.ee/?id=412> (01.12.2008).
- ¹¹² Supreme Court Constitutional Review Chamber judgement, October 1, 2007, case no. 3-4-1-14-07, published in Riigi Teataja, III 2007, no. 34, art. 274. English text available at <http://www.riigikohus.ee/?id=850> (01.12.2008).
- ¹¹³ Police Board letters no. PA2-1.11.2/3177 of July 18, 2006 and no. PA_2.1-20.2/5648 of 12 January 2007; Ministry of Justice letter of January 21, 2008. Available in the authors' archive.
- ¹¹⁴ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.
- ¹¹⁵ The activities of the Estonian parliament are reflected at the official site <http://www.riigikogu.ee>, where legislation drafts are also posted.
- ¹¹⁶ Riigi Teataja, I 2004, no. 37, art. 256.
- ¹¹⁷ Harassment is an unwanted conduct with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.
- ¹¹⁸ Riigi Teataja, I 2003, no. 23, art. 142.
- ¹¹⁹ Õiguskantsleri 2007.a. tegevuse ülevaade (Review of the activity of Chancellor of Justice in 2007), Tallinn, 2008. P. 315.
- ¹²⁰ Information about the activities of the Chancellor of Justice can be found at <http://www.oiguskantsler.ee> (01.12.2008).
- ¹²¹ Labour Inspectorate letters of January 9, 2007; no. 1-05/17675-1 of September 26, 2006; and no. 1-05/234-1 of January 18, 2008. Available in the authors' archive.
- ¹²² Concluding observations of the Committee on the Elimination of Racial Discrimination: Estonia, 69th Session, 19 October 2006, CERD/C/EST/CO/7. Para. 19.
- ¹²³ Discrimination in the European Union 2008: Results for Estonia, European Commission, 2008. This and other Eurobarometer reports are available at http://ec.europa.eu/public_opinion (01.12.2008).

- ¹²⁴ Discrimination in the European Union: Summary, Special Eurobarometer 263 / Wave 65.4 – TNS Opinion & Social, January 2007, European Commission. P. 33.
- ¹²⁵ Discrimination in the European Union 2008: Results for Estonia. P. 1.
- ¹²⁶ Discrimination in the European Union: Estonia, European Commission, 2007. P. 4.
- ¹²⁷ Ibid. P. 1.
- ¹²⁸ Discrimination in the European Union 2008: Results for Estonia. P. 4.
- ¹²⁹ Ibid. P. 3.
- ¹³⁰ Discrimination in the European Union: Summary, Special Eurobarometer 263 / Wave 65.4 – TNS Opinion & Social, January 2007, European Commission. P. 25.
- ¹³¹ Discrimination in the European Union 2008: Results for Estonia, European Commission, 2008. Pp. 3 – 4.
- ¹³² K. Hallik, V. Poleshchuk, A. Saar, A. Semjonov. Estonia: Interethnic Relations and the Issue of Discrimination in Tallinn, Tallinn: Legal Information Centre for Human Rights, 2006. P. 33.
- ¹³³ Ibid. P. 48.
- ¹³⁴ The question asked was: “Have you experienced any infringement of your rights or maltreatment due to your ethnic background in the past three years?” It should be noted that 25% of naturalised citizens of Estonia, 51% of Russian citizens, and 30% of the stateless people have not been to educational institutions during the period of time. Over the same term, 24% of Russian citizens have not been to cafes and restaurants, etc. This can be the explanation why the indicators for various groups of non-citizens differ so substantially.
- ¹³⁵ K. Hallik, V. Poleshchuk, A. Saar, A. Semjonov. Estonia: Interethnic Relations... P. 39.
- ¹³⁶ Ibid. P. 40.
- ¹³⁷ M. Lagerspetz, K. Hinno, S. Joons, E. Rikmann, M. Sepp, T. Vallimäe. Isiku tunnuste või sotsiaalse positsiooni tõttu aset leidev ebavõrdne kohtlemine: elanike hoiakud, kogemused ja teadlikkus. Uuringuraport (Unequal Treatment on Grounds of Individual or Social Characteristics: Attitudes, Experiences and Awareness of the Population in Estonia. Study Report), Tallinn, 2007. P. 15. Available at <http://www.sm.ee> (01.12.2008).
- ¹³⁸ Ibid. Pp. 143 – 144.
- ¹³⁹ Ibid. P. 144.
- ¹⁴⁰ Ibid.
- ¹⁴¹ Ibid. P. 67.
- ¹⁴² Ibid. P. 19.
- ¹⁴³ Ibid. Pp. 145 – 146.
- ¹⁴⁴ Ibid. P. 93.
- ¹⁴⁵ Ibid. P. 141.
- ¹⁴⁶ Ibid. P. 95.
- ¹⁴⁷ Ibid. P. 101.

- ¹⁴⁸ Ibid. Pp. 150 – 151.
- ¹⁴⁹ The results of all elections since 1992 can be found at the Estonian Electoral Commission website, at <http://www.vvk.ee> (01.12.2008).
- ¹⁵⁰ All coalition agreements since 1992 can be found at the Estonian government's official site <http://www.valitsus.ee> (01.12.2008).
- ¹⁵¹ Mr. Eldar Efendijev, minister without portfolio, January 28, 2002 – April 10, 2003.
- ¹⁵² Tallinn city court judgement, September 1, 2003, criminal case no. 1/1-2029/02.
- ¹⁵³ For example, see “Eesti Päevaleht” (daily), March 4, 2004.
- ¹⁵⁴ The 24 – 28 May, 2004 Language Inspectorate report is available at <http://www.keeleinsp.ee> (01.10.2008).
- ¹⁵⁵ Citizens of Estonian and citizens of other EU countries residing in the country have the active and passive electoral rights in European elections (European Parliament Elections Act, Article 4).
- ¹⁵⁶ According to the 2000 census ethnic non-Estonians made up 15.8% of the citizens of Estonia. 2000 Population and Housing Census: Citizenship... II. Table 39.
- ¹⁵⁷ Article 5(2) of the old version of the Local Government Council Election Act.
- ¹⁵⁸ Riigi Teataja, I 2006, no. 48, art. 358.
- ¹⁵⁹ 2000 Population and Housing Census: Citizenship... II. Table 12.
- ¹⁶⁰ Narva division of the Russian Party in Estonia. January 9, 2005 statement to the press. Available in the authors' archive.
- ¹⁶¹ In particular, the 2007 Security Police Yearbook said that in the last parliamentary elections “the puppet-party could not fulfil the hopes of the SVR”, i.e. Russian Foreign Intelligence Service and the party was described as ‘extremist-disposed’. 2007 Security Police Yearbook, Tallinn, 2008. P. 1, 4 (internet version). Available at <http://www.kapo.ee> (01.12.2008).
- ¹⁶² M. Lagerspetz, K. Hinno, S. Joons, E. Rikmann, M. Sepp, T. Vallimäe. Isiku tunnuste või sotsiaalse positsiooni tõttu aset leidev ebavõrdne kohtlemine: elanike hoiakud, kogemused ja teadlikkus. Uuringuraport (Unequal Treatment on Grounds of Individual or Social Characteristics: Attitudes, Experiences and Awareness of the Population in Estonia. Study Report), Tallinn, 2007. P. 30.
- ¹⁶³ A. Semjonov. Presidential Roundtable on Minorities in Estonia: Successes and Failures. UN Doc. E/CN.4/Sub.2/AC.5/1998/CRP.1.
- ¹⁶⁴ For example, the 2006 report states erroneously that half of the members of the Legal Information Centre for Human Rights are also members of the “Constitutional Party that represents extremist ideology” (2006 Security Police Yearbook, Tallinn, 2007. P. 4 (internet version)). It is a recurrent theme in the reports that the Centre's critical assessments of the ethnic policies in Estonia are linked to the funding it receives from Russia. Actually, EU agencies and funders

- from the EU have been the Centre's main donors over the past years, and the fact is reflected by audit results. The case of the Legal Information Centre for Human Rights drew attention of the Amnesty International (AI) and it was reflected in the 2009 report of the AI (available at <http://report2009.amnesty.org/en/regions/europe-central-asia/estonia> (01.07.2009)).
- ¹⁶⁵ Name before 2007: the European Monitoring Centre on Racism and Xenophobia (EUMC).
- ¹⁶⁶ "NRC Handelsblad" (newspaper), June 6, 2006.
- ¹⁶⁷ V. *Poleshchuk*. Estonia // C. *Mudde* (ed.) *Racist Extremism in Central and Eastern Europe*, London, NY: Routledge, 2005. Pp. 61 – 62.
- ¹⁶⁸ Details can be found in: *War of the Monuments: the Chronological Review // Bronze Soldier*. April Crisis, Tallinn: Legal Information Centre for Human Rights, 2007. Available at <http://www.lichr.ee/main/assets/engbn.pdf> (01.12.2008).
- ¹⁶⁹ Interview with the leader of the association Siin Igor Ivanov. November 17, 2008. Available in the authors' archive.
- ¹⁷⁰ Бронзовый солдат. Апрельский кризис. – Таллин: Центр информации по правам человека, 2008. С. 120. (*Bronze Soldier*. April Crisis, Tallinn: Legal Information Centre for Human Rights, Second edition, 2008. P. 120).
- ¹⁷¹ *Article 19*. Estonia. Statement to the Harju County Court on the Criminal Prosecution of Dmitry Linter, Dmitry Klenski, Maksim Reva and Mark Siryik. London, 15 January 2008. P. 9. Available at <http://www.article19.org> (01.12.2008).
- ¹⁷² Judgement issued by the Harju county court, January 5, 2009, criminal case no. 1-07-13025 (07737777192).
- ¹⁷³ Ida Police Department of Põhja Police Prefecture letter no. PHJ 11.4-1.13/52 of July 26, 2005.
- ¹⁷⁴ Interview with deputy chairperson of the Russian party in Estonia Gennadi Afanassjev, March 20, 2007. Decree of the Viru district prosecutor's office, April 19, 2006 on the termination of criminal procedure no. 05913000029. Available in the authors' archive.
- ¹⁷⁵ "Postimees" (daily), October 20, 2005. The information was confirmed personally by Tatjana Ždanoka.
- ¹⁷⁶ MEP Tatjana Ždanoka (Zhdanok) is called 'the representative of Russian extremists living in Latvia' in: 2005 Security Police Yearbook. Tallinn, 2006. P. 13 (internet version).
- ¹⁷⁷ Tallinn city court judgement, January 5, 2005, case no. 1-2242/04.
- ¹⁷⁸ Tallinn city court judgement, August 5, 2005, case no. 4-1173/05.
- ¹⁷⁹ Riigi Teataja, III 2006, no. 13, art. 124.
- ¹⁸⁰ Riigi Teataja, I 2006, no. 31, art. 234.
- ¹⁸¹ Explanatory note to legislation draft no. 913 (10th Riigikogu), available at <http://www.riigikogu.ee> (17.10.2008).

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- ¹⁸⁴ T. *Madisson*. *Holokaust: XX sajandi masendavaim sionistlik vale (Holocaust: the Worst Zionist Lie of the 20th Century)*, Lihula, 2006.
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- ¹⁸⁶ "Pärnu Postimees" (newspaper), January 28, 2006.
- ¹⁸⁷ Delfi (internet news portal), December 27, 2006; Eesti Päevaleht Online (newspaper), January 8, 2007.
- ¹⁸⁸ Press Release of the Information Service of the Government of the Republic of Estonia. July 8, 2006. Available in the authors' archive.
- ¹⁸⁹ Langi juubelil "Adolf" ("Adolf" at Lang's anniversary) // "Eesti Ekspress" (weekly), July 4, 2007.
- ¹⁹⁰ See details in: *Bronze Soldier*. April Crisis, Tallinn: Legal Information Centre for Human Rights, 2007. Available at <http://www.lichr.ee/main/assets/engbn.pdf> (01.12.2008).
- ¹⁹¹ For example, an individual detained during the April events, held in a 'filtration camp', and released in the morning later received a message from the Police Board saying that he was detained in the framework of a police operation envisioned by Article 13 of the Police Act. Põhja Police Prefecture letter no. PHJ 4.5-14 11/42483 of June 20, 2008. The letter also contains references to the Police Act provisions setting the general duties of police related to maintaining public order (Article 12).
- ¹⁹² Riigi Teataja, I 2008, no. 28, art. 181.
- ¹⁹³ Äärmuslaste aktsioonide tagant paistab Vene diplomaatide vari (Shadow of Russian Diplomats behind the Extremist Activities) // "Postimees" (daily), April 25, 2007.
- ¹⁹⁴ Russian Embassy in Estonia. Press Release of May 18, 2007.
- ¹⁹⁵ 2007 Security Police Yearbook, Tallinn, 2008. P. 5 (internet version).
- ¹⁹⁶ *Ibid.* Pp. 1, 5.
- ¹⁹⁷ A. *Saar*. *Rahvusvahelise ja integratsioonipoliitika väljakutsed pärast pronkssõduri kriisi (Inter-ethnic Relations and the Integration Challenge after the Bronze Night Crisis)*, 2007, Tallinn. P. 38.
- ¹⁹⁸ Materials concerning the Orsent incident are available in the authors' archive. See also: Advisory Committee on the Framework Convention for the Protection of National Minorities. Second Opinion on Estonia adopted on 24 February 2005, ACFC/INF/OP/II(2005)001. Art. 88.
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- ²⁰⁷ Estonian Apostolic Orthodox Church.
- ²⁰⁸ With the name the Estonian Orthodox Church of Moscow Patriarchate.
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- ²¹⁰ 2000 Population and Housing Census: Education... IV. Table 89.
- ²¹¹ Interview with the representative of the North African Association, March 14, 2008. Available in the authors' archive.
- ²¹² Riigi Teataja, I 2005, no. 22, art. 155 – 157.
- ²¹³ Discrimination in the European Union: Summary... P. 15.
- ²¹⁴ Riigi Teataja, I 2004, no. 54, art. 391.
- ²¹⁵ Chancellor of Justice's letter no. 5-3/0608588 of January 5, 2007. Available in the authors' archive.
- ²¹⁶ Riigi Teataja, I 2005, no. 39, art. 308.
- ²¹⁷ Ruling of the Supreme Court Criminal Chamber, April 24, 2008, case no. 3-1-1-24-08, published in Riigi Teataja, III 2008, no. 18, art. 122.
- ²¹⁸ Committee against Torture. Consideration of Reports Submitted by State Parties under Article 19 of the Convention: Conclusions and Recommendations of the Committee against Torture – ESTONIA, CAT/C/EST/CO/4, 22 November 2007. Para. 23.
- ²¹⁹ "BNS" (news agency), July 4, 2008.
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- ²²¹ Riigi Teataja, I 1997, no. 69, art. 1111.
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- ²³² Ministry of Education and Research letter no. 3.1-3/204 of April 13, 2006. Available in the authors' archive.
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- ²³⁴ Ministry of Education and Research letter no. 1.1-11/9740 of August 6, 2008. Available in the authors' archive.
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