

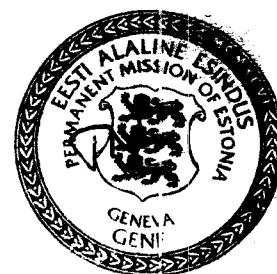
*Permanent Mission of Estonia*  
*Geneva*

No. 45

The Permanent Mission of the Republic of Estonia to the United Nations Office and the other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and in response to the latter's letter of 17 January 2008, concerning the questionnaire to Member States prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to Decision PC.1/10 of the Preparatory Committee of the Durban Review Conference, would hereby forward the answers of the Republic of Estonia to the questionnaire.

The Permanent Mission of the Republic of Estonia avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 28 February 2008



*Encl:* Answers to the questionnaire 8 pages

To the Office of the High Commissioner for Human Rights  
Anti-Discrimination Unit  
GENEVA

**OHCHR REGISTRY**

- 3 MARS 2008

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**Contribution of the Republic of Estonia to the Office of the United Nations High  
Commissioner for Human Rights pursuant to decision PC.1/10 of the  
Preparatory Committee of the Durban Review Conference.**

**Core Questions**

Estonia considers the combat against racism, racial discrimination, xenophobia and related intolerance very important. Taking into account the demographic and societal environment in Estonia, Estonia implements the Durban Declaration and Plan of Action in the framework of general measures for protection of human rights and human dignity.

As a general measure constitutional equality has been guaranteed in Estonia (Constitution of the Republic of Estonia, article 12).

Relevant provisions to combat Racism and Xenophobia can be found in articles 151-155 of the Penal Code.

Even though the Penal Code does not explicitly include racial motivation among the circumstances that should increase punishment, the so-called 'base motive' (article 58 subparagraph 1) may be interpreted as such.

In 2006 article 151 of the Penal Code was amended. Since 16 July 2006 the amended provision of the Penal Code penalises incitement to *discriminate* and provides for liability for legal persons. Attention has been given, during last years, to the necessity to combat hate speech in the Internet and other media.

In 2007 there were no criminal investigations commenced by the Police on the basis of relevant articles of the Penal Code (articles 151-155). There were no incidents/reports recorded by the police or officially reported by the public. No such crimes were recorded by the prosecution service.

There were no criminal law court cases in the reported period (articles 151-155 of the Penal Code).

Taking into account the above-mentioned information, there are no practical examples in the field of criminal law.

Among the extra-judicial institutions whose task is to guarantee the protection of constitutional rights and freedoms, the Chancellor of Justice, acting as an Ombudsman, and the Commissioner for Gender Equality should be mentioned.

Every person who finds that he or she has been discriminated on the basis of gender, race, ethnicity, colour, language, provenance, worldview, or any other ground as stated by the law, by a natural or a legal person, has the right to file an application with the Chancellor of Justice in order to initiate conciliation proceedings. An ex officio initiation of proceedings has not been provided for. The outcome of the proceedings has binding character.

According to the Chancellor of Justice there were 1448 proceeding in his office and 38 of them 'related to the principle of equality and equal treatment' between 1 January – 10 September 2007.

In January – September 2007 there were three applications filed with the Chancellor of Justice Office with the request to start a conciliation procedure and two of them related to the cases of alleged ethnic discrimination.

Estonia is a party to the UN International Convention on the Elimination of All Forms of Racial Discrimination since 1991. Estonia submitted its sixth and seventh periodic reports on the implementation of the Convention in one document in 2006. The Committee on the Elimination of Racial Discrimination considered Estonia's reports in its meetings in July and August 2006. The Government of Estonia had an open and constructive dialogue with the Committee during these meetings. The Committee noted that the report addressed the concerns and recommendations set forth by the Committee in its previous concluding observations. The Committee adopted its concluding observations on 14-15 August 2006. The next periodic report Estonia will submit in 2008 and in this report the points raised in the 2006-year concluding observations will be addressed.

Estonia is taking seriously its task to implement the observations adopted by the Committee. For example already in 2004 the Gender Equality Act was adopted, later relevant acts regulating employment relations were amended in order to prohibit discrimination in employment relations.

At the moment the Draft Equality Act is in the proceeding of the Parliament. By this Act Estonia adopts one comprehensive law to complete transposing the Council of the European Union anti-discrimination directives 2000/43/EC, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and 2000/78/EC, which establishes a general framework for equal treatment in employment and occupation into Estonian legislation.

The draft law foresees detailed anti-discrimination provisions in, *inter alia*, the area of education, social protection, health care and access to publicly available goods and services. The draft law creates a system of protection of discrimination victims on the grounds covered by the directives, the material scope of this new draft law (for ethnic origin, race, colour, religion or belief, age, disability and sexual orientation) is almost identical to that in the Council of the European Union Directive 2000/43/EC.

The Gender Equality Commissioner was appointed in 2005 and according to the Draft Equality Act, the Gender Equality Commissioner will in the future deal with all issues of discrimination.

In 2005 the rules to obtain Estonian citizenship were simplified, this concerns minors and elderly.

## **Annex**

1.

a) Equal treatment in courts is guaranteed by articles 9 and 12 of the Constitution and the codes of court procedures.

b) Under articles 11, 13, 16 *et seqq* of the Constitution as well as under article 291 and articles 118-122 *et seqq* of the Penal Code violent treatment is prohibited and punishable.

c) Restriction on political activity is established in article 48 paragraph 1 of the Constitution, which states that only Estonian citizens may belong to political parties; however, social activity is possible in various other forms to which the restriction does not apply; activity against Estonian constitutional order is prohibited.

d) Freedom of religion is guaranteed by articles 40 and 41 of the Constitution irrespective of race, citizenship or other grounds; violation of freedom of religion and compelling a person to join or be a member of a religious association or a political party is punishable (Penal Code articles 154 and 155).

e) The equality in employment relations is guaranteed by article 29 of the Constitution; according to article 10 of the Employment Contracts Act any unjustified unequal treatment of employees on grounds of sex, racial origin, age, ethnic origin, level of language proficiency, disability, sexual orientation, duty to serve in defence forces, marital or family status, family-related duties, social status, representation the interests of employees or membership in workers' associations, political opinions or membership in a political party or religious or other beliefs is prohibited; employer may not treat employees unequally upon employment and entry into employment contracts or upon remuneration, promotion in employment or office, giving instructions, termination of employment contracts, access to retraining or in-service training or otherwise in employment relations.

f) The right to adequate housing arises, in addition to constitutional guarantees to inviolable home, protection of property and choice of residence, also from article 14

of the Social Welfare Act, according to which the local governments must grant housing to a person or family, who is not able or capable to ensure housing to himself or to his family, creating, if necessary, the possibility to rent social housing; and in accordance with paragraph 1 of article 12 of the Constitution, the local government has thereby the obligation to avoid any kind of discrimination on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds.

g) The guarantees to health protection arise from article 28 of the Constitution, according to which everyone has the right to the protection of health; every person in the territory of the Republic of Estonia has the right to receive emergency care (health services which are provided by health care professionals in situations where postponement of care or failure to provide care may cause the death or permanent damage to the health of the person requiring care); also regarding the availability of medical treatment and social services no one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds.

h) Everyone's right to education is guaranteed by article 37 of the Constitution.

i) Aspects of the protection of cultural life and language are guaranteed among other acts by articles 49, 50, 51 and 52 of the Constitution and by the National Minorities Cultural Autonomy Act.

j) Freedom of movement is equally guaranteed by articles 34 and 35, discrimination in making services accessible is unlawful.

The Penal Code provides for punishments for incitement of hatred (article 151), for violation of equality (article 152), and for discrimination based on genetic risks (article 153).

According to article 151 activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in

danger to the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention. The same act, if it causes the death of a person or results in damage to health or other serious consequences, or if it was committed by a person who has previously been punished by such act, or if it was committed by a criminal organisation, - is punishable by pecuniary punishment or up to 3 years' imprisonment.

According to article 152 unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, financial or social status is punishable by a fine of up to 300 fine units or by detention. The same act, if committed at least twice, or if significant damage is thereby caused to the rights or interests of another person protected by law or to public interests, is punishable by a pecuniary punishment or up to one year of imprisonment.

According to article 153 unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her genetic risks is punishable by a fine of up to 300 fine units or by detention. The same act, if committed at least twice, or if significant damage is thereby caused to the rights or interests of another person protected by law or to public interests, is punishable by a pecuniary punishment or up to one year of imprisonment.

Estonia has made no reservations to the UN International Convention on the Elimination of All Forms of Racial Discrimination and Estonian laws do not contain rules which could be used as a justification for a discrimination based on racism, xenophobia, or related intolerance.

11.-12. The topic of discrimination is discussed in the subjects of human studies and social studies in general education schools. In 2006 and 2007 there has not been specific teachers' training in the areas related to multicultural and anti-racist education. However, the aspects of multicultural education are normally touched upon in the frame of various additional training initiatives and towards these aspects a permanent interest has been paid.

13. Incitement to racial and other types of hatred is punishable. Measures have been enforced to restrain hate speech on the internet, including the statements expressing discriminatory intolerance and to decrease the anonymity of such expressions, which on the one hand disciplines the authors of the expressions and on the other hand enables to impose liability pursuant to law in case of offences.

16. In Estonia the civil society plays an important role in the fight against racism on the national level. Even though there are only a few non-profit associations dealing with the matter, they actively and successfully serve various purposes. One of the key roles is to raise general awareness of the matter but also of the causes and consequences of racism among the public; commence dialogues in the society, especially between the society and the state, vulnerable groups and the parties concerned. Several non-profit associations actively provide support to the victims of discrimination ensuring them accessibility to their right by offering them legal aid and representation in courts.

17.-18. No separate measures are taken in case of racist crimes. The Prosecutor's Office and other competent authorities are under the obligation to initiate criminal proceedings in the appearance of elements of an offence in case of all offences, including racist offences. There are measures which allow to identify the person who has made anonymous insult or statement expressing racism or intolerance and apply civil or criminal liability in his/her regard. These measures have been applied effectively.

19. Racial profiling is not in use and in case the law enforcement authority would use it and it would constitute unequal treatment of persons, disciplinary liability is foreseen under the article 152 of the Penal Code.

20.-21. Education, social and other programmes treat people of African origin equally.

22.-23. Guaranteeing the preservation of Estonian language and culture is one of the main principles of the Estonian Constitution. Estonia has also supported the rights of the indigenous population in other countries.



24.-25. In Estonia the number of asylum-seekers and refugees is insignificant. In 1997-2005 four persons were granted the refugee status and ten persons received subsidiary protection status.

According to the Law on Granting International Protection to Aliens article 73 paragraph 4, the local government shall arrange for the admission of the person enjoying international protection and, if necessary, assist him or her *inter alia* in finding housing and obtaining social and health services. According to Article 75 paragraph 1 of the same law, during his or her stay in Estonia, a person enjoying international protection has the right to receive state pensions, family benefits, employment services and employment subsidies, social benefits and other assistance on the same grounds provided by legislation as permanent residents of Estonia. His or her family member to whom a residence permit has been issued on the basis of the same law as to a person enjoying international protection has all the same rights (Article 75 paragraph 7).

26. The population of Romas in Estonia is relatively small: 588 persons (according to the survey conducted in 2005).

There are two cultural societies of Romas: Roma Society of Northern Estonia (in Tallinn) and Young Estonian Roma Culture Centre (in Võru). Romas have received financial support within the framework of State Integration Programme.

27. There have been no Anti -Semitic, Islamophobic and Anti-Roma incidents or crimes registered.

28. The Government approved by its order of 26 January 2006 the Development Plan for Combating Trafficking in Human Beings, which points out the strategic objectives in combating trafficking in human beings and stipulates the primary measures and activities for the years 2006-2009. Estonia is also more and more intensively combating the mediation of prostitution, money-laundering and other crimes related to human trafficking.