



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

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-ninth session

SUMMARY RECORD OF THE 1761st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 31 July 2006, at 3 p.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION
SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE
CONVENTION (agenda item 4)

Sixth and seventh periodic reports of Estonia (CERD/C/465/Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Estonia took places at the Committee table.*

2. Ms. LEPIK von WIRÉN (Estonia) said that the report under consideration was first compiled in Estonian, and not in English, as it had been the year before, to enable State institutions and NGOs to acquaint themselves with it and comment on it. After that, the document was translated into English and was published both in Estonian and English on the website of the Ministry of Foreign Affairs. The concluding observations of this Committee would also be translated and published in both those languages. NGOs were taking an ever more active part in the preparation of reports for this Committee. The Legal Information Centre for Human Rights had prepared specially for the Committee an exhaustive report that was also given to the Ministry of Foreign Affairs for information purposes.

3. As a member of the European Union, Estonia attached great significance to the work of UN treaty bodies, as well as to its obligations to submit reports to those bodies. The creation of the Human Rights Council in 2006 represented an excellent opportunity to make broader, more effective use of human rights norms. Estonia intended to become a member of that Council in 2012.

4. Estonia's accession to the European Union had encouraged individuals who did not have a nationality to apply for Estonian citizenship. In November 2005, the number of individuals who had received citizenship via naturalization exceeded the number of individuals with undetermined citizenship. In order to comply with the EC directive in that area, Estonia amended the Alien Act and was now affording individuals opportunities to obtain a new residence permit, that is, the status of a permanent resident of the European Union.

5. On 3 October 2005, Estonia named a Gender Quality Commissioner who reviewed, and ruled on, claims from individuals who considered themselves victims of discrimination. The Commissioner carefully followed campaigns conducted by civil servants, journalists, trade-union personnel, and women's NGOs to raise awareness of gender equality.

6. In 2000, the Estonian Government adopted the national programme Integration into Estonian Society 2000–2007 and, led by the Ministry of Population and Ethnic Affairs, undertook various projects geared to facilitating the integration of non-Estonians. To achieve the goals of that programme, the Integration Fund began implementing various social-integration projects in areas such as education, Estonian language training, the integration of new immigrants, competence-building, and assistance to the cultures and languages of ethnic minorities, as well as increased awareness of tolerance and cultural diversity. The Ministry assessed the integration programme in 2005 and, based on the results of the assessment, began preparing a new programme for 2008–2013.

7. In January 2006, the Estonian Government adopted the National Action Plan for Combating Human Trafficking 2006–2009, which consisted of four major

elements — prevention, suppression, protection of victims, and information — whose effectiveness it would assess in 2009. Adoption of the action plan was an important step forward, and its effective implementation would constitute even greater headway.

8. In 2004, Estonia ratified Protocol No. 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and signed the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which was to be ratified by parliament in the fall of 2006. And finally, in June 2006, Estonia amended several laws to make it easier to prosecute the authors of communications that incited racial hatred, including communications sent via the Internet. With the effectiveness of the punitive measures, those steps would be helpful in the struggle against racism and intolerance.

9. According to the 2000 census, there were at least 140 nationalities in Estonia. The main ethnic groups, however, were Russian (approximately 400,000), Ukrainian (around 36,000), and Belarusians (about 21,000). As for the Roma, it was difficult to determine precisely how many of them there were, because some of them did not declare themselves as such. Officially, there were about 540 Roma in Estonia, although that figure was disputed by some associations, which felt that that number could be from 1,000 to 1,500. Statistical data on immigrants and refugees would be submitted to the Committee members later, in writing. By way of illustration, she said that there were now 108 asylum-seekers in Estonia, and authorities had issued 4,086 residence permits to new arrivals in 2005.

10. Ms. HION (Estonia) said that the country had no law that specifically pertained to non-discrimination, but that article 12 of the Estonian Constitution proclaimed that no one could be a victim of discrimination on the grounds of sex, age, ethnic affiliation, nationality, or economic status. She also allowed that all citizens were equal before the law and that incitement to hatred was prohibited and punishable. Other legal instruments, such as the Penal Code, the Labour Act, the Education Act, and the Child Protection Act contained provisions that asserted the principle of non-discrimination. Furthermore, Estonia had ratified the ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, as well as Protocol No. 12 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. It was fully understood that the implementation of those legal instruments would take time. In addition to that, Estonia was studying how to transpose the Race Equality Directive on equal treatment between persons irrespective of racial or ethnic origin into national law. Estonia was aware that a number of discrimination cases had been filed with the European Court of Human Rights and with the UN Human Rights Committee. Nonetheless, she noted that the Human Rights Committee had already rejected one of the three complaints filed with it.

11. The Presidential Round Table on National Minorities, created in 2001, in keeping with its principal functions, advised the President on matters pertaining to minorities and promoted equal treatment for all national minorities. Although its structure was altered in May 2003 to clarify its mandate and functions and to make it a standing, independent body, the Round Table encountered difficulties in its work and no longer met after October 2004. Officially, Estonia did not recognize any national minority, but all groups of minorities could freely exercise their

fundamental rights. The country had ratified the Council of Europe Framework Convention for the Protection of National Minorities and was taking great pains to comply with it. Estonia was providing financial assistance to all national minority associations that requested it. Moreover, almost all national minorities were represented in parliament.

12. She said that the National Minorities Cultural Autonomy Act was geared to facilitating the cultural autonomy of minority groups, but that, with the exception of the Finns, no other minority had shown a desire to avail itself of the opportunities provided under that law.

13. Mr. KOORT (Estonia) explained that the Legal Information Centre for Human Rights was called upon to provide legal assistance and support to individuals and organizations on all matters that pertained to residence permits and work permits, the procedures for reuniting families, the conditions for immigration, and the rights of aliens. The Centre also disseminated information on human rights and the rights of minorities in seminars and colloquiums and, since June 2005, had been providing free telephone assistance to victims of discrimination.

14. He explained that the amendment of the Citizenship Act in March 2004 had made it possible to streamline the procedures for naturalization requests considerably. Under the old provisions, any person seeking Estonian citizenship had to wait one year after requesting naturalization to affirm his or her desire to be a citizen in writing to a standing governmental body. The incorporated amendment cut the waiting period to six months after the filing of the application for naturalization, and the competent government institution now had to submit its own decision to the Government, with a justification of its decision to award Estonian citizenship. That legislative change resulted in an increased number of naturalization applications, which were 4,900 in 2003, 6,919 in 2004, and 6,752 in 2005.

15. Ms. HION (Estonia) noted that provision 10 of article 12(4) and article 12(5) of the Alien Act was amended because it did not allow behavior to be taken into account in the consideration of naturalization for an alien living in the country. The amended legislation entered into force on 16 January 2004.

16. She added that the Estonian Government was unaware of racist articles in the press about the Roma. She clarified that the national press had, in fact, hosted an in-depth discussion of the advisability of continuing to mention the nationality of persons implicated in the commission of a crime, but journalists then agreed to abandon the practice in the future. And finally, she noted that there was only a small number of Roma in Estonia and that they were sedentary and fully integrated into society.

17. She acknowledged that national minorities, including Russian speakers, were over-represented in the Estonian prison population, and she explained that the situation was undoubtedly due to the fact that members of minorities did not have a command of the official national language, which contributed to their economic and social marginalization. National authorities decided to rectify that situation, and Estonian language courses have been taught in the prisons since 2005 to improve the chances for socio-economic integration for imprisoned minority members once they are released from prison. According to official statistics, Estonian prisons as of January 2006 held 1,538 Estonians and 1,848 members of national minorities, 1,617

of whom were Russian. In January 2005, the prisons held 1,524 Estonians and 1,945 national minority members, 1,702 of whom were Russian.

18. Ms. ILVES (Estonia) said that Estonian authorities attached a great deal of importance to the struggle against the dissemination of racist messages and incitement to racial hatred on the Internet, as evidenced by the recent launch throughout the country of an information campaign about that to make people aware of the fact that the dissemination of such messages on the Internet was a criminal offence punishable by a fine or by imprisonment for up to 3 years. On 14 June 2006, parliament amended several pieces of legislation to make it possible for civil courts within the competence of their civil jurisdiction, as well as investigating judges and criminal prosecutors, to obtain and make compulsory use of all hateful statements disseminated over the telephone, electronic devices, and computers. In August 2005, one Tallinn court convicted a 23-year-old man for disseminating hostile comments and statements about Jews and blacks on the Internet in 2003 and 2004.

19. Ms. KALJULÄTE (Estonia) noted that the Labour Inspectorate did not record a single case of discrimination in 2004 or 2006.

20. Mr. TOON (Estonia) stressed that, in general, the police security commission investigated only very serious, frequent acts of incitement to racial hatred. In 2004-2006, it conducted 10 preliminary investigations of cases that contained the components of incitement to ethnic, racial, or religious hatred, four of which resulted in judicial inquiries.

21. Mr. YUTZIS (Country Rapporteur) congratulated the delegation of Estonia on the quality of its replies. As for the Estonian Social Contract signed in 2003, the Rapporteur regarded its stated objectives to be positive, but asked how Estonian authorities expected to implement it, given the broad restrictions on the political rights of aliens in the country. He noted from paragraph 77 of the periodic report under consideration that non-citizens could participate in the elections of local councils, but that, under the Local Government Council Election Act (paragraphs 71 and 72), electoral candidates had to have a certain proficiency in the Estonian language. Paragraph 88 noted also that only Estonian citizens could be members of any political party in Estonia. Those provisions severely restricted the political rights of aliens in Estonia.

22. With regard to paragraph 81 of the report of the State party, he noted that the Constitution did not allow non-citizens to be members of any political party, which, in his opinion, was quite a serious restriction. He understood that aliens could not hold high-level political posts, but he felt that access to political functions at a low level should not be closed off to them. For that reason, the new “social contract,” in the sense of the term as used by Rousseau, should consist in the participation of all society’s participants, including non-citizens.

23. Furthermore, in reading the report, he noted that in 2004 there were 155,820 so-called “persons with undetermined citizenship” (paragraph 104) — an expression that, to him, seemed ambiguous. He was interested in getting a clarification of that, as well as with regard to the social and political status of individuals identified as such. Finally, he was interested in learning when the conditions would arise for those 155,820 persons to get a determined status.

24. With regard to the Roma, the Rapporteur stated that, according to the State party, that minority had just 42 members, whereas, according to non-governmental

sources, they numbered around 1,500. He was interested in learning which of the figures was closer to reality.

25. Although he found the information submitted under paragraphs 87 and 88 interesting, he asked why the State party had not acceded to either the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the European Convention on the Legal Status of Migrant Workers.

26. In light of the terminology, including the word “public” of article 151 of the Penal Code, referred to in paragraph 56 of the report, he was of the mind that acts of incitement to racial hatred were stopped only when they were performed publicly. For that reason, he asked the delegation of Estonia to explain whether the provisions of that article could nevertheless be applied to acts of incitement to racial hatred performed in quasi-public settings, such as in places of worship or in other such special situations. Furthermore, it would be helpful to have broader explanations of how Estonian law regarded the link between racial discrimination, terrorism, or religious or other extremism and social hatred.

27. Moreover, noting that the Estonian Council of Churches was receiving State subsidies, he was interested in knowing whether any of the churches receive larger subsidies than others and, if so, why. Finally, he directed the attention of the Estonian delegation to assertions of NGOs that the media, particularly television, indulged in forms of sarcastic humour aimed at certain social groups. He was interested in learning what the Government’s position was with regard to such practices, which, if they actually took place, were a violation of the Convention.

28. Mr. THORNBERRY expressed his satisfaction with the information in the report indicating that the State party was making arrangements to ensure, henceforth, the translation of the Committee’s concluding observations into Russian (paragraph 7). In fact, a number of recommendations were of direct interest to the Russian minority in Estonia, and it was entirely probable that they would figure into the concluding observations that the Committee would prepare for the report under consideration, as they did in the concluding observations for the fifth periodic report of Estonia.

29. Noting that in the text of the report, minorities were defined sometimes as “nationalities,” sometimes as “ethnic groups,” and recalling that integration programmes were geared not only to national minorities, but also to ethnic minorities, he was interested in learning what that distinction was centred on and why it was being preserved.

30. With regard to article 51 of the Penal Code (paragraph 57), he asked the Estonian delegation to explain whether the term “origin”, which was used in it, encompassed both national and ethnic origin. Furthermore, pointing out that direction signs must be understandable to the entire population, because they involved safety, that is, people’s health, he asked for clarification regarding paragraph 76 of the report, which pertained to the implicit restricted use of only Estonian for public signs and announcements.

31. On the switch from Russian to Estonian and the language of instruction in the schools (paragraph 171), he asked the Estonian delegation to describe the transition strategy and the methods used for teaching Estonian. Furthermore, noting that a considerable part of the legislation pertained to promoting the Estonian language, he asked whether that language was currently under threat and whether the measures

that had been taken had achieved the goals set by State authorities right after Estonia had gained its independence. Finally, he felt that it would be beneficial to have an articulation of the general framework of the objectives of the language programmes and their connection to Estonian self-identity.

32. Mr. KJAERUM noted with satisfaction that the report made frequent reference to the Committee's concluding observations that pertained to the fifth periodic report of Estonia and that it contained critical comments by NGOs, which made it a particularly lively and interesting read.

33. Recalling that, in 2002, the parliament had voted down a draft law on discrimination, he was interested in learning the reasons for the rejection and, in particular, whether it was due to provisions involving indirect discrimination contained in the draft. Furthermore, noting that the Estonian Penal Code did not prohibit racist organizations, he asked whether certain articles of that code could be employed to prosecute such organizations and, if not, whether the State party was contemplating amendments to that document in order to fill that gap.

34. For all the positive assessments of the efforts undertaken by Estonia to simplify and accelerate the procedures for obtaining citizenship, he stressed that a rate of 5,000 persons naturalized a year was not fast enough to legalize, in a reasonable amount of time, the status of 156,000 persons having no citizenship. Moreover, given that a command of the Estonian language was extremely important in obtaining citizenship, he asked whether the State authorities could take measures to improve the quality of Estonian language courses and make them more accessible to persons who needed them. Furthermore, he asked the Estonian delegation whether the State party would be able to make allowance for ratifying the 1951 Convention relating to the Status of Refugees and the 1961 Convention on the Reduction of Statelessness.

35. Finally, with regard to the hearing of complaints of racial discrimination, he was interested in learning whether the State party could create a State institution for the protection of human rights that would also have competence in the area of racial discrimination, as well as sexual discrimination, with a re-grouping of powers, which might be advisable, given the numerous similarities between the two types of discrimination.

36. Mr. BOYD gave high marks to how the State party had responded to the recommendations of the Committee regarding consultations with civil society organizations and the publication of the reports and concluding observations. The fact that those documents would henceforth be in the Estonian language would make them accessible to broader circles of the public, even if they would still have to be explained to those most concerned and would have to be translated primarily into Russian, the language of the country's main minority.

37. He noted that Estonia still did not have a comprehensive law against discrimination. The question arose of what remedies were available to victims of acts of discrimination committed by perpetrators other than State institutions. The Chancellor of Justice seemed to be performing the functions of intermediary and, in that capacity, was hearing complaints against State institutions; but his powers were limited with regard to violations committed by individuals in, for example, the workplace, in school, or in the area of housing. Mr. Boyd felt that, in such cases, the Chancellor of Justice could participate only as a voluntary conciliator, which had

happened only once, or in the event of a violation of a precise, given provision of the Constitution or related law. For that reason, he asked whether there were any civil legal remedies that would make it possible to obtain, for example, an order to cease a given form of discrimination. In addition, Mr. Boyd was interested in learning why the Equality Act had not been adopted and whether putting such a law into effect in the near future was being contemplated.

38. Mr. TANG Chengyuan noted, from paragraph 91 of the report, the State party's benevolent attitude toward retirees of the Armed Forces of the Russian Federation. According to some sources, more than 150,000 persons deprived of citizenship, the majority of whom were former Soviet military personnel, were, as before, still on Estonian soil. If that was due to a certain wariness, that was understandable; nonetheless, a practical policy for such integration had to be recommended, since those were people who had been living on Estonian territory for several decades, and they had no other place to go. He felt that the decision of the Human Rights Committee cited in paragraphs 116 and 117 of the report pertained only to the case of one individual, Mr. Borzov (communication No. 1136/2002; CCPR/C/81/D/1136/2002), but that the question of obtaining Estonian citizenship had not changed for a very large number of people and could not be settled by a treaty body. By the same token, he felt that the declared policy of integration had to be put into practice.

39. Mr. LINDGREN ALVES wanted the delegation to clarify the distinctions between nationality and citizenship and, failing that, affirm that only persons whose native language was Estonian could automatically obtain Estonian citizenship. Such a narrow understanding of the concept of citizenship, which stood in contrast to the existing systems of other European countries, where the people themselves chose the definition of affiliation with a minority, led to the question of what the State party had in mind when it announced the desire to be a "multicultural country." The question of the registration of the Roma also arose, because some of them did not declare themselves as such. And finally, he was interested in learning whether the expression "social hatred" (article 151 of the Penal Code; see paragraph 11 of the report) pertained to racial hatred or to some form of hatred between social classes.

40. Mr. PILLAI appreciated that the State party had responded quite thoroughly to the Committee's preceding recommendations, had prepared the report under consideration in collaboration with civil society organizations, and had taken measures to prosecute cyber hate crimes.

41. Mr. Pillai was very surprised when he read in the core document that the Estonian population had declined by 8 per cent between 1989 and 2000. It would be useful to learn whether that very considerable decline was due not just to the birth rate, but also to migrant-related shifts and, if so, whether the shifts were confined to certain ethnic groups.

42. He felt that the situation with the Roma was cause for particular concern. The report of the European Commission against Racism and Intolerance stressed that only 67 Roma children were attending Estonian schools and that some of them were being sent to institutions for the mentally handicapped simply because they did not speak Estonian. For that reason, it was all the more important that the delegation provide additional information on the Committee for the Education of the Roma, which was created in 2004 and on its achievements, as well as on the "social contract" cited in paragraphs 32 and 33, clarifying whether that initiative was aimed

at the Roma. He was also interested in having a clarification of the year date of those last provisions — 2002, as seemed to have been indicated in paragraph 11, or 2004, as implied in paragraph 56 of the report — and in having additional information provided to the Committee on the activities of the Chancellor of Justice in specific examples of cases. And finally, he was interested in learning what constituted an independent expert in paragraph 59 of the report, where it said the following: “If independent expert assessment confirms the incitement to national or racial hatred, the Security Police will carry out a pre-trial investigation.” On that score, it would also be beneficial to receive examples of specific cases.

43. Mr. AVTONOMOV asked whether the institution of the Chancellor of Justice conformed to the Paris Principles, and, if not, whether provisions were being made to create such an institution. In addition, he was interested in knowing why the 2002 draft act on equality, which was based on European Union directives, did not enter into force and what measures were being taken to bring the level of unemployment of the Russian minority in line with that of Estonians..

44. Aware of the fact that about 10 per cent of the population did not have Estonian citizenship and that it took 25 years to get it, he felt that it should be made possible for those who wished to be naturalized to do so more quickly. If the conditions associated with having a command of the Estonian language were due to a readiness to support that language, it would be appropriate to facilitate access to Estonian language courses, particularly in regions where the Russian-speaking population constituted a majority. It was unfair that the time allotted to broadcasts in Russian or bilingual broadcasts was decidedly less than that for broadcasts in Estonian. Furthermore, the fact that the origin of members of local communities was confidential made it impossible to ascertain whether elections involved discrimination or not.

The meeting rose at 6.05 p.m.