

Overview of the status of human rights in Estonia in 1999

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This overview was prepared by the Estonian Institute of Human Rights which has operated since 1992 as a non-profit organisation. This overview is the first attempt to analyse the status of human rights in Estonia and therefore, in some cases the relevant background has also been approached.

Estonia is a democratic republic with a parliamentary system which re-established its sovereignty in 1991 after fifty years of occupation by the Soviet Union.

Fundamental human rights in Estonia are secured by Chapter 2 of the Republic of Estonia Constitution, *Fundamental Rights, Freedoms and Duties*, and the supporting acts. The Republic of Estonia has subscribed to a number of international human rights agreements. The most important of them are listed below:

In 1991, Estonia joined to the following UN human rights covenants:

- Convention on the Prevention and Punishment of the Crime of Genocide;
 - International Convention on the Elimination of All Forms of Racial Discrimination;
 - International Covenant on Civil and Political Rights;
 - Optional Protocol to the Covenant on Civil and Political Rights (16.12.1966);
 - Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity;
 - International Convention on the Suppression and Punishment of the Crime of Apartheid;
 - Convention on the Elimination of All Forms of Discrimination against Women;
 - Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment;
 - International Convention against Apartheid in Sports;
 - Convention on the Rights of the Child,
- which all entered into force in Estonia between 1991 and 1992.

Since 1993 in force the Geneva conventions for human rights and their protocols. In 1996, Estonia ratified the Convention for the protection of human rights and fundamental rights and its protocols (except protocol No 6 which entered into force in Estonia in 1998) and the Council of Europe Framework Convention for the Protection of National Minorities. In 1997, in Estonia the Convention relating to the Status of Refugees and the 31 January 1967 Protocol relating to the Status of Refugees entered into force. In 1998, Estonia signed the amended European Social Charter.

Under the Constitution, all the international treaties to which Estonia has subscribed belong to the Estonian legal system and carry supremacy over the domestic acts.

All the international covenants to which Estonia has subscribed have been published in the Estonian language. The latest to be published was in September 1999 in the State Gazette: the nonofficial translations into Estonian of the Geneva I, II, III and IV convention adopted 12.08.1949 and their I and II additional protocols adopted 8.06.1977.

A majority of the conventions and covenants prescribe that the state subscribing to them shall periodically report about the situation in the state in respect of the scope of the convention or covenant. The Republic of Estonia has not always fulfilled this requirement. For instance, to date no reports on the fulfilment of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women have been made. A report on the fulfilment of the International Convention on the Elimination of All Forms of Racial Discrimination was prepared in 1999 in the English language and has not been published in Estonian. Similarly, the report regarding compliance with the International Covenant on Economic, Social and Cultural Rights exists also only in English and has not been published in Estonian.

After the restoration of independence, Estonia lacked an updated legal system appropriate for a democratic civic society structure due to half-a-century of Soviet occupation,

As a result of ten years of intensive law making by the *Riigikogu*, today such a system principally exists but is not stable and some fundamental laws (such as the penal code) are still being proceeded with. Similarly, the quality of the laws is not always up to the required standard. For instance, more than twenty amendments have already been made to the Republic of Estonia Principles of Ownership Reform Act adopted in 1991, which in essence change the original spirit of the law; the Non-profit Associations Act adopted in 1996 is clerk-centred and *de facto* limits the freedom of association guaranteed to citizens under Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The provisions and implementation acts of this law (especially the amendments adopted in 1999) prescribe bureaucratic and restrictive requirements on the registration and activities of non-profit associations, which these small and financially limited associations are incapable of complying with in reality.

Estonia does not have state institutions dealing with the subject matter of human rights (a human rights committee of the *Riigikogu*, a commissioner of human rights or an advisor to the government, etc.). Under law, the obligations of an *ombudsman* are partially vested on the legal chancellor who can exercise them to only a limited extent as his office lacks regional subunits.

A suspect in crime is promptly given the opportunity to choose and confer with counsel (Constitution, § 21). Free legal counselling and legal aid are difficult to get in Estonia as these are only rendered by a few non-profit associations (such as the Memento Union for the unlawfully repressed and the Union of Legal Successors; in

the domain of human rights the Institute of Human Rights and the Legal Information Centre for Human Rights)

Investigation of crimes against humanity and war crimes

The investigation of war crimes became possible for the first time in Estonia in 1999 as earlier there were no Estonian translations from the Geneva conventions and their additional protocols. To date, no precedents exist. In Estonia, the most massive war crime was the sending of all the people punished for political reasons to penal servitude in the occupying country. The wages for the at least half a million work years worked there have still not been paid. The other major type of war crime was the massive violation of the fair trial rules.

Deportation or the massive banishment of people from their homes was, is and will be by its essence one of the most obvious types of crimes against humanity next to the crime of genocide. This crime is especially aggravated by the fact that it was committed on the basis of group membership and targeted mainly women, children and the elderly.

In order to investigate the March 1949 deportation carried out on the orders and under the general guidance of the Communist Party of the Soviet Union during which more than 20,000 people were deported, the Security Police Board opened a criminal case back in 1995 from which, insofar as concrete suspects have been clarified, separate criminal cases have been initiated (eight cases as of 1999). The investigation of all the criminal cases focuses mainly on archive documents as taking into account the time that has passed since the committing of the crimes, charges can be brought primarily on the basis of written documents. The underlying goal is to identify and bring to justice the persons who played leading roles in the committing of crimes. A majority of the files and other evidence related to the victims of repression by the Soviet security authorities in the 1940s-1950s can be found in the National Archive of Estonia. As during and after the preparation and implementation of the deportation many different documents were made at different levels, the investigation into crimes against humanity has much better prospects compared to the investigation of the wars crimes committed in Estonia during World War II. The main problem is and will be the advanced age of the accused and suspects which has allowed some suspects to avoid court on the grounds of so-called health problems.

In 1998, the preliminary investigation in four criminal cases against the employees of the former Estonian SSR Ministry of State Security (MSS) as the chief organisers and executors of the deportation was completed. All of them were accused in crimes against humanity under § 61¹ 1) of the Criminal Code. Charges were brought against the former operative plenipotentiary of the Läänemaa Division of the ESSR MSS, Johannes Klaassepp (born 1921), the operative plenipotentiary of the Järvamaa Division Vladimir Loginov (born 1924) and the operative plenipotentiaries of the Pärnu City Division Vasili Beskov (born 1918, citizen of the Russian Federation) and Mikhail Neverovski (born 1920). Although the court hearings in the criminal case of Johannes Klaassepp started at the Lääne County Court already in 1998, the judgements of the court of first instance in all the previously mentioned criminal cases were announced as late as in 1999.

A court precedent was created on 22 January 1999 when the Lääne County Court, for the first time ever in Estonia, convicted Johannes Klaassepp of crimes against humanity. The court ruled that the guilt of Klaassepp (78) has been established and was given a conditional sentence of eight years of prison with a two-year probationary period. Both the prosecutor and the counsel for the defendant appealed to the Circuit Court which, on 6 April 1999, decided not to change the punishment and made no amendments to the judgement of the court of first instance.

On 10 March 1999, the Pärnu County Court convicted Vasili Beskov of crimes against humanity. The court found that the guilt of the eighty-year-old Beskov had been established and sentenced him to two years of prison with a three-year probationary period. Vasili Beskov appealed the judgement but on 19 May 1999 dropped his action and agreed to the probation.

On 17 March 1999 the Järva County Court terminated the criminal matter against the former ESSR security agent Vladimir Loginov, charged with crimes against humanity, and ruled that he should be placed in the custody of a psychiatric hospital until his health improves. Under the court order, the guilt of Loginov in the deportations 50 years ago was established and therefore, after the defendant gets well, the court would decide on his punishment. The Security Police also accused the former operative plenipotentiary of the Järvamaa Division of the Estonian SSR MSS in the deportation of 14 people from Järvamaa to Siberia in March 1949.

The Pärnu County Court started to hear the criminal case of Mikhail Neverovski on 19 July 1999. Of more than a hundred victims, about 60 appeared in the courtroom. The prosecutor said in his speech that the age of the deporter might cause sympathetic feelings but among those he deported there were people as old as 84 and also infants, which the prosecutor saw as an aggravating factor. The court found that the guilt of the defendant was proved in respect of deportation, the preparation of deportation and attempted deportation. On 30 July 1999, the Pärnu County Court sentenced Mikhail Neverovski to four years in a closed prison. On 1 November 1999, the Tallinn Circuit Court relieved Mikhail Neverovski from actual imprisonment and replaced the punishment with four years of imprisonment with a three-year probationary period and appointed a probation officer for Neverovski.

On the one hand, it is symbolic but on the other hand it is quite sad that the first convictions in respect of the organisers of the March 1949 deportations were achieved only on the 50th anniversary of the crime of genocide. The mildness of the court sentences affects the feelings of honour and justice of the surviving deportees who were present at the trials as witnesses. Hundreds of deportees, forcibly driven out of their homes, died en route to Siberia in cattle wagons, and later in Siberia. It was very real for them. The souls and health of the survivors were scarred for life.

The first completed court cases of 1999 convinced the investigators of war crimes and crimes against humanity at the Security Police Board that they were fighting the good cause. Taking into account that about 25,000 persons were scheduled to participate in the 1949 March deportation (i.e. more than the deportees), four sentences are only a negligible result but of course this is not the final amount. Court judgements allow appraisal of the work done so far and for new goals to be set. In 2000, preliminary investigation will continue in two other criminal charges brought against the organisers of the 1949 March deportation. Initially Läänemaa, Järvamaa,

Pärnumaa and Saaremaa were chosen because the Security Police of these counties had received claims from victims or there existed information that high party and security officials resided there. Now related materials are also being examined in Tartumaa.

We should add that the court processes attracted and continue to attract much interest in international news agencies and newspapers. Similar court processes against the criminals of the Soviet occupation regime occurred in 1999 also in Latvia and Lithuania. Thus, the west is gradually coming to learn the bitter truth that besides the Nazis the party, security and administrative officials and military of a victorious power of World War II, the Soviet Union, also committed massive crimes against humanity. For Estonia, this is only a small moral consolation for the 2nd trial of Nuremberg which never occurred but which should have had the serving criminal leaders of the Soviet Union sitting in the dock.

Enforcement organs and the legal system

In Estonia, compared to 1998, the number of registered crimes increased by 13% (in 1998 and 1999 respectively 45,721 and 51,539 crimes). Of the 51,539 crimes registered by the police, in 25,709 cases the person who committed the crime is unknown and the criminal proceeding has been stopped. In 1999, the crime level increased the most in Raplamaa and the city of Narva – respectively 30% and 29%.

The Estonian police was set up after the restoration of independence in 1991 and it is in the area of administration of the Ministry of Interior Affairs. During the transformation of the Soviet militia into police, the debolshevisation and filtration of personnel were not systematic enough, the vices of the Soviet enforcement system passed over to the Estonian police. Recurrent reforms introduced as from 1991 have for several reasons (frequent change of ministers of interior and police heads, opposition from staid bureaucrats, etc.) been less effective than hoped for. 1999 witnessed a new extensive police reform which resulted in many police officers being made redundant and also in higher salaries for those who remained.

What is a problem is not just systematic police violence but rather the incidents related to police activity, caused by inadequate training, lack of knowledge among and low morals of the policemen themselves. Abuse of force has occurred and innocent people have been forcibly detained. Due to general poverty, low salaries and insufficient social security offered to policemen they are prone to corruption and have a low resistance to blackmail. Part of non-Estonian policeman do not have sufficient command of the Estonian language and consequently Estonians are afraid of communicating with them for fear of being misunderstood. By the end of 1999, a majority of the policemen with a low command of Estonian were dismissed.

The police force has not managed to ensure the security of people, especially in Tallinn. Street crime, burglaries, thefts from cars and car thefts are so abundant that in Tallinn one cannot find common people who (or whose kin or family) have not fallen victim to a crime. What causes alarm is that the number of non-Estonians among felons is higher than of Estonians. During the Soviet occupation, Ida-Virumaa was the place where those criminals who did not get permission to live in Leningrad were settled after release from prison. This fact should prevent attempts to associate the fight against crime with national issues.

Under the Constitution, no one shall be held in custody for more than forty-eight hours without a court order. After initiating a criminal case, the preliminary investigation must be completed at the latest within two months or, as a rule, the accused must not be held in custody for more than two months. The period of preliminary investigation may be extended to four months, in some cases the custody period has been extended to up to 12 month by a judge's warrant. It is very common for the police to ignore those deadlines. Not infrequently, the investigation into cases has extended beyond two years and individual criminal cases can be proceeding in court for more than a year. Essentially this brings the effect of punishment down to a minimum.

A condition precedent to the development of police structures and making the work of the police more effective would be a new generation of young police officers, intact from the Soviet system, increase in their experience and close international cooperation and assistance from other countries. Many policemen study in foreign countries, seminars, lectures and training trips are organised, experts are invited here, etc. European police academies and police training centres are involved in this process. Estonia is a member of Interpol and cooperates with it. A US FBI representation operates in Tallinn. From 1998, a new subject, Police and Human Rights, was introduced in all specialities taught at the Interior Defence Academy and all the graduates from 1998 and 1999 received corresponding training. Unfortunately, as from 2000 the new syllabus of the Interior Defence Academy no longer includes the subject and the related training courses.

Estonia's court system is three-step and is composed of county and city courts and administrative courts, circuit courts and the Supreme Court. It is prohibited to convene special courts. County, city and administrative courts are the courts of first instance. Circuit courts are the courts of the second instance and the Supreme Court is the highest court in Estonia. Judges are appointed for life. They can be removed from office only under a court judgement. For instance, a judge of the Tallinn City Court, A.L., was convicted of negligence related to his office and was removed from office.

All the Estonian courts, especially in Tallinn, suffer from overload of cases. Therefore, it may take years to achieve trial and sentencing. Cases where process is terminated due to expiration are not rare either. In this connection, society is increasingly less satisfied with the work of the courts and the effect of punishment has also diminished. The situation is especially complicated with the solution of the so-called white-collar crimes which require special knowledge and constant self-education on the part of the judges. Court activities are hampered also in Ida-Virumaa as it is difficult to find judges who are fluent both in the official language and Russian. A certain mark on the activities of the courts was left by the discrepancies between the Ministry of Justice and Supreme Court related to the issues of court subordination, widely discussed in newspapers in 1998-1999. To date, the courts of first and second instance are subordinated to the Estonian Ministry of Justice.

In 1999, the total number of criminal cases submitted to the courts of first instance amounted to 7,279 (15.7% more than in 1998), as per court judgements enforced, 9,413 persons were tried and 8,786 persons were, as per court judgements enforced, convicted.

In terms of human rights, the two recently adopted legal acts – the Compensation of Damages by the State to Persons Caused by Ungrounded Arrest Act which entered into force on 1 January 1998, under which a person can be compensated for damages incurred by ungrounded arrest in accordance with the procedure established by the act, and the Payment of State Compensation to Victims of Crime Act which entered into force on 1 January 2000 and which regulates the procedure for alleviation of the material consequences of serious crimes of violence. Under the Act, compensation is payable to the victims of crimes of violence, and their dependants, committed after 1 January 2000.

In 1999, county and city courts received 24,566 civil cases (13.1% more than in 1998). In 1999, the number of administrative cases sent to county, city and administrative courts was 8,183, i.e. 105.5% more than in 1998. Such an increase can be attributed to the growing number of complaints and actions submitted to courts due to violations of the Ownership Reform Act.

Special services and data protection

The special services of the Republic of Estonia are the Security Police Board in the area of administration of the Ministry of Interior Affairs, the General Staff of the Defence Forces (2nd department) in the area of administration of the Ministry of Defence, the Information Service in the area of administration of the Ministry of Foreign Affairs, and the Government Communication Board in the area of administration of the State Chancellery. Their activities are coordinated by the Coordination Office of the State Chancellery. Surveillance operations can be undertaken by the Security Police Board and, within its scope of jurisdiction, the Chief Staff of the Defence Forces.

Currently there is no one specific law which would guide and regulate the state's security-related activities. The draft Security Agencies Act is being processed, which provides for the tasks and competence of security agencies in ensuring the state's security and constitutional order and the procedure for supervision over the activities of security agencies.

Under the draft Act, the Republic of Estonia will have, as independent security agencies, the Security Police Board and the Information Board respectively in the areas of administration of the Ministry of Interior Affairs and the Ministry of Defence. Related German, British, Dutch, Norwegian and Canadian legal acts were analysed in preparing the draft Act. Finnish and Swiss documents were also examined for this purpose. The reports of the Venice Commission set up by the Council of Europe regarding domestic interior services (1998) and their supervision (1997) have been used to a significant extent. The Act is planned to enter into force on 15 July 2000.

The Security Police operates under its statute, the Police Act and the Surveillance Act. The Security Police Board, just as the Police Board, is entitled to perform special acts of surveillance under the Surveillance Act whereas such acts shall be performed also on the request of other surveillance agencies which do not have the right (Border Guard Board, Customs Board and the 2nd department of the General Staff of the Defence Forces). Under the Surveillance Act, the general director of the Security Police Board must, in order to perform special acts of surveillance,

apply for a written authorisation from the chairman of the Tallinn Administrative Court.

Twice a year, the general director of the Security Police Board submits to the minister of interior affairs a report on the fulfilment of the tasks of the Security Police. This report is not subject to disclosure. The general director is also accountable to the special committee of the *Riigikogu* for inspection of the compliance of the Security Police and surveillance operations with laws. If necessary, he or she may present statements directly to the prime minister.

The special committee of the *Riigikogu* for inspection of the compliance of the Security Police and surveillance operations with laws regularly inspects the operations of the Security Police Board and other special services. The State Prosecutor's Office also supervises the activities of the Security Police Board.

The fundamental documents of the 2nd department of the General Staff of the Defence Forces and the Information Service subordinated to the Ministry of Defence and the Government Communication Board have not been disclosed.

The Personal Data Protection Act was adopted in Estonia on 12 June 1996. It was drafted in compliance with the common standpoint of the European Union (EC) No/95 and directives 94//EC and 95//EC of the European Parliament and the Council.

The scope of the Act covers the full or partial automated processing of personal data and also non-automated processing if the personal data used is retrieved from or entered into a systematised set of personal data. Here we should mention that the Act regulates only the protection of intimate personal data of Estonian citizens and of aliens with permanent residence permits. Court proceedings under the Data Protection Act are possible. There was a court process where the defendant was accused of compilation of an unlawful database and was conditionally sentenced to jail.

The compilation of computer databases is provided for in the Databases Act, adopted by the *Riigikogu* on 12 March 1997, which in many ways is similar to the Personal Data Protection Act.

The Personal Data Protection Act and the Databases Act regulate supervision, i.e. the way of inspecting and controlling information systems. The Acts, however, do not regulate the supporting acts: who should ensure the protection of information systems, how and to what extent it should be done.

A work group on security policies and security classes has been formed by the information systems department of the State Chancellery. The Data Protection Inspection operates in the area of administration of the Ministry of Interior Affairs as an agency supervising data protection.

In Estonia, the personal data and databases such as the information bases of the Commercial Register, Passport Register, Citizenship and Migration Board, Motor Vehicle Registration Centre, the Card Centre of Estonian Banks, etc. are weakly protected which is proved by the fact that databases containing the names, card

numbers, credit limited and card transaction histories of Eurocard owners have been available on the black market.

The database used for checking the identities of people crossing the Estonian boarder contains mistakes due to the fault of clerks. Incidents have been reported where someone who at one point had lost his or her passport, or his or her namesake had, was detained at the Estonian border and had to give away his or her passport to the border guards as the once lost and then retrieved passport was still marked as "lost" in the data base.

The Defence Forces and the Defence League

In 1999, the problems in the defence forces and the Defence League caused extensive criticism and debate. The predominant belief is that it is not possible to set up a professional army. The armed services need to be reformed towards the direction of being smaller and better. The length of service of one year has caused reluctance.

The reserve for the armed forces is in essence ensured by the Defence League which has approximately 8,000 men – ancillary structures included, the Defence League is an organisation that unites about 12,000 people. As of the 3rd quarter of 1999, there were 7,314 active members of the Defence League, 327 members of the Women's Defence League, 3,142 boys in the Young Eagles and 1,625 girls in the Daughters of Estonia. Having completed an application to join the Defence League, the candidate shall join a preparatory training group where he or she will get the knowledge and skills requisite for being a part of the organisation. Within three months, the background of each candidate is checked by heads of League units in conjunction with the Security Police who decide, on the basis of the candidate's behaviour, his or her suitability to be a member of the League. In addition, the candidate has to have a medical check-up and, after completing the training, take some tests, mainly related to the safety of handling arms. This is where the roots of the problem are. One of the consequences of the Soviet occupation has been alienation from fire arms: guns are not treated with respect and dignity but handled carelessly and arrogantly. This has become a problem for the Defence League *and* the armed forces.

On 21.12.1999, the Ida-Viru county court convicted a member of the Defence League K.S. who had, the previous summer, shot, under the influence of alcohol, a local villager and sentenced him to 11 years imprisonment in a closed facility.

On 18.09.1999, a member who had already served for six years in the Pärnumaa unit of the Defence League fired, in an attempt to scare away wild boars from his potato field, three shots from his automatic into the darkness towards the sounds of the boars and hit a hunter who was hiding on the other side of the field. He shot the other man in the shoulder and the latter died as a result of the injury.

The general public still discusses an event three years ago when a former voluntary policeman and member of the Defence League M.K. wounded two people with his pistol trying to stop pickpockets in central Tallinn. On 13 December 1999 the Tallinn City Court sentenced him conditionally for two years in prison and he will also have to pay approximately 900,000 kroons to recover the medical costs of one of his victims.

In 1999, members of the Defence League committed five suicides; one casualty occurred upon an unprompted attempt to deactivate a mine. Likewise in 1999, a violation of gun-carrying regulations resulted in a light wounding, and the bursting of an explosive packet also caused a slight injury during training. Unfortunately, the Institute of Human Rights is aware of an incident where a representative of an Estonian national minority requested political asylum in another country on the grounds that the activities of a semi military organisation called the Defence League are directed against the lives and health of Estonian Russians. This also signals shortcomings in the explanatory work conducted by the Defence League among non-Estonians and foreigners.

Regarding the problems connected with the defence forces we should, however, mention that without these forces Estonia cannot contribute to global stability and security, which is one of the eligibility criteria for our accession to NATO. Estonia did not have national defence forces for 45 years. Estonian military personnel have served in the armies of other countries and thus have knowledge and training from different schools. Disagreements between the Ministry of Defence and the General Staff of the Defence Forces have been frequent.

The Constitution lists which fundamental rights, freedoms and obligations of a citizen must not be restricted while he serves in the defence forces or in alternative service. Actually, both bullying among servicemen and restriction of servicemen's rights by their superiors occur in the army. For instance, Harju County Court punished two former non-commissioned officers (V.H and V.A) who served at the Kalev Battalion for misuse of power and sentenced them conditionally to prison for one-and-a-half years. In December 1999, the Tallinn Circuit Court did not change the resolution of the Rural Court. In October 1999, the head of the defence forces imposed a 10-day distraint on twelve servicemen at Company C of the Kuperjanov Single Infantry Battalion who had during eight months derided and terrorised five servicemen physical inferior to them.

In 1999, the military police was searching for 21 deserters. In respect of all of them criminal action has been brought. In 1999, of all the servicemen released for the Christmas and New Year holiday, 26 failed to report to the forces on time and five of them are still absent without leave. The deserter with the longest "tenure" has been wanted since 1994 when he left the Narva Border Guards cordon. Serious searches for deserters did not actually begin until February 1998. Initially, the police was designated as the institution to search for deserters and bring them to court but since 1997 this has been the task of the military police and investigation unit which is operated by the General Staff of the Defence Forces. By the end of 1999, five servicemen had each been sentenced to two years in prison for desertion. The military police has handled the cases of 115 deserters, the location of 94 of them has been identified and they are awaiting trial. As a rule, deserters are given up to three months of detention in a black hole as punishment after which they must resume their service.

The leaders of the defence forces have created an interesting system of representatives according to which each troop elects their representative, the representatives of troops elect from themselves a representative of the company and the representatives of companies then elect the representative of the battalion. Such a system has been successfully launched in Tallinn, in the training company for the

Rear Battalion. A representative may present his requests and claims directly to the battalion commander without revealing the names of the soldiers who appealed to him. Should a representative lose the trust of the servicemen, his powers can be promptly terminated and a new representative elected in his stead.

According to official statistics, 1071 men registered for military service in 1999, of them 96 were dismissed due to medical problems. Poor health and bad command of the official language are the problems encountered most with prospective servicemen. Of the soldiers serving in the Estonian army, 25% are estimated to have command of only the Russian language.

In 1999, a total of 170 service-related and non-service traumas and six deaths were registered in the units of the armed forces. Of the deaths, one was a suicide committed while on sentry duty, the second was a serviceman who suffered fatal heat-stroke at the Tartu Autumn Marathon, although the following investigation established that he was exposed to drugs plus he had a brain tumour. The remaining four cases were either unrelated to service, or traffic accidents or drownings. There were two casualties in the Border Guards, caused by a traffic accident and illness of which neither was service-related.

The situation in prisons and the treatment of prisoners

Prisons in Estonia amount to nine, thereof six are for men, two for juvenile delinquents and one for women. Towards the end of 1999, the number of people subject to detention in the Estonian prisons was 4468 (compare with 4785 as of 1 July 1997 and 4829 as of 1 January 1998). The subjects to pre-trial proceedings have been included – for instance as of 1 January 1998, the number of people convicted in prisons was 3162 and the number of subjects under pre-trial was 1567. The same ratio applied also in 1999 (as of 15 April 1999, the number of subjects of detention was 4378, thereof convicted were 3076, pre-trial subjects 1272, under criminal detention in prisons 15 and internees also 15).

Four thousand four hundred and sixty-eight inmates divided between the following prisons: Murru Prison 1463, Rummu Prison 438, Ämari Prison 501, Tallinn Magasini Street Prison 796, Pärnu Prison 66, Tallinn Central Prison 928, Viljandi Juvenile Prison 61, Maardu Prison 112, Harku Women's' Prison 103 inmates.

The most crowded prisons have always been the Murru Prison and the Tallinn Central Prison. Space-related problems are also faced in the Ämari Prison, originally designed for 360 inmates but now accommodating 501. Thereby, we should note here that the Ämari Prison is the newest of the Vasalemma prisons. The situation in the Tallinn Central Prison has been relieved by the opening of the new prison in Magasini street accommodating 350 inmates; since the second half of the 1997 one-half of the adult inmates are held in custody there, but it is still far from being an excellent situation. For instance, the Tallinn Central Prison is located in the area constructed in 1765 and the building erected in 1919, compared to the Pärnu prison located in the building constructed in 1861 and being fully modernised. Last part of reconstruction was finished in August 1998. The living conditions in the Harku women's' prison are satisfactory, it accommodates 103 inmates and has the potential for 200.

Estonian prisons are faced with the problem of tuberculosis spreading among the inmates. Sixty-five prisoners in the Tallinn Central Prison are receiving treatment, which supports the fact that the living conditions in the present Estonian prisons expose the health of the inmates to danger. Air conditioning in the prisons is insufficient and the humidity fosters the formation of the tuberculosis. A majority of the inmates in the Estonian prisons is unemployed. Only the Harku Women's Prison can offer employment to all inmates. Bedlinen, blankets and wears are sewn, paper bags are produced. Ämari Prison is the only producer of zinc buckets in Estonia; barbed wire, oven housings, milk firkins and sheet-iron shovels are also produced there. Murru Prison produces iron-doors for railway carriages. Another activity in prisons is cleaning and construction work. Idleness has the most depressive influence on inmates. At the same time, it is understandable that the public resources for financing the production basis are limited, there is no public procurement to the production of inmates either.

Misunderstanding between inmates and the prison management about the sums of remuneration are frequent. Part of the pay will be transferred to the deposit to be used after release, a quarter of the remuneration will be transferred to a special account that can be used for purchases in the prison shop. A lot of the prisoners are subjects to civil actions. Confusion after release is substantial and it is also evidenced by frequent applications to the Institute of Human Rights.

The problem of the preceding years with the poor knowledge of state language of warders continues in 1999. Some chief executives have been removed from posts because of their insufficient language skills, but they have been offered other posts where the Estonian language is not indispensable. For example, the director of the Tallinn Central Prison V.R. was removed in March 1999 on the grounds of poor language skills and transferred to the post of the chief executive of the watch department.

Increasingly problematic field is the supervision of the prisoners' correspondence. Delays in forwarding the complaints and applications, censorship of correspondence, copying the letters of prisoners, etc. may occur. The absolute majority of the prisoners' applications that have been forwarded by the administrations of the prisons to the Institute of Human Rights have been formally correct.

Widespread opinion of the officials of the prisons' administration is that the principle of the confidentiality of messages does not apply to inmates, forming an exception, and that the Constitution is applicable only with the limitations set forth in the Enforcement Act and the prison's bylaws. Some of the prisons' officials are on the position that the correspondence of inmates has to be received opened and under supervision to overcome the requirement of getting the court's permission for supervision of inmate's messages.

From time to time, correction facilities have refused to deliver to inmates newspapers and issues of the State Gazette.

The fact that blackmails have become common in prisons has become a source of alarm. It is very hard to fight against the situation as inmates are afraid to testify. Blackmailing concerns debts carried over from freedom to prison; victims are often forced to give away their packages and clothes and then they, in turn, will make demands on their parents, family, friends and acquaintances.

Blackmail often occurs under the disguise of the so-called "taxing". The "taxes" are usually collected by the so-called authoritative figures. Inmates have to pay for being able to go to work or as compensation for having informed against someone. The inmates whose behaviour differs from that of the others, i.e. does not follow the unwritten rules of the prison are usually those subjected to such kind of treatment.

Brutality in the treatment of the inmates is mainly caused by the rules imposed by the inmates themselves – a situation accepted and exploited by prison administrations. This enables imprisoned Estonian underworld leaders solicit special benefits for themselves. Most of the leaders also maintain their power of influence while in jail. The leaders of the underworld can even be admired for their excellent organising capabilities. E.g., some convicted criminals had their own cell plus three other cells renovated to the European standards at the Tallinn Central Prison.

In solving the complaints of inmates, often the only evidence is the word of a the prisoner against the officer of administration and thus the complaint is simply cushioned. For instance, inmate A.A. claimed on 28.06.1999 that upon his arrest the provisions of § 31 1) of the Code of Enforcement Procedure were violated in that he was detained between 2.10.–12.11.1998 in the Rummu Prison quarantine unit whereas he should have been transferred to the general quarters. The deputy general director of the Prisons Board, now liquidated, said that at the stage committee meeting on 8.10.1998 A.A., who had been brought in to the Rummu Prison on 2.10.1998, had himself said that he had problems with the other inmates and was therefore placed in the quarantine unit, subject to the general regime, as he wished. In this case it is very difficult, even impossible to prove the other way.

Two-thirds of the prisoners serving in Estonian prisons are either Russian-speaking people without a citizenship or nationals of the Russian Federation or another former Soviet Republic who do not have valid residence permits. It often happens that a released ex-inmate has no documents whatsoever save his notice of release and 150 kroons in cash. For instance, S.S., released ahead of term from the Ämari Prison, used to live in Leningrad before his arrest. In order to be able to go back to Russia he needed a valid passport issued by the Russian Embassy in Tallinn. Before issuing passports, the Embassy makes enquiries, which is of course necessary but takes time. The result is a situation where a former inmate is forced, due to the unorganisedness of post-prison life (no place where to live, no means of livelihood, without documents or with expired documents, to say nothing of residence and work permits, one cannot get a job) to resume his criminal activities. Grey zones in the state system, indifference and omissions of prison administrations place many released prisoners in a dire situation, which is further aggravated by the fact that a former convict cannot for obvious reasons have a mutually trusting relationship with the representatives of State power, he is usually even not interested in it, and usually he does not really comprehend the rules that exist in freedom.

Many inmates are interested in exchanging their Soviet driving licenses for new Estonian licenses (which can also be used for identification purposes instead of the passport). But for this someone should collect the inmates' driving licenses and money for state fees, organise pictures to be taken of them, bring the documents to the prison for signing, organise medical check-ups, etc. Besides, even if were someone to undertake this job, it would still be impossible as one must personally appear in the Motor Vehicle Registration Centre to change his driving licence.

Developments in refugees' rights and related policies

The Convention relating to the Status of Refugees and the 31 January 1967 Protocol relating to the Status of Refugees entered into force on 9 July 1997 in Estonia. Based on these conventions, Estonia adopted the Refugees Act, which entered into force on the same day whereas its amendments entered into force on 1 September 1999.

In 1999, a total of 21 requests for asylum on the territory of the Republic of Estonia were filed and as of 31 December 27 asylum applicants (including those who had appealed at the resolution of the authorities) were waiting for a decision concerning their fate. Last year, six refugees from Pakistan, two from Sierra Leone, one from Turkey, one from Russia, two from Turkmenistan, one from the Ukraine, seven from Afghanistan, and one from Somalia arrived in Estonia, asking for asylum.

Until the end of 1999, Estonia had granted none of the requests for asylum. All the requests for asylum submitted to the government of Estonia were rejected by the resolution of the government, of those six resolutions were annulled after they were appealed at an administrative court and sent for a new review to the Board of Citizenship and Migration. Under the Refugees Act, asylum in Estonia may be granted to an applicant: 1) who has reason to fear persecution in his or her country of nationality or country of permanent residence for reasons of race, religion, nationality, membership of a particular social group or political opinion; 2) who has arrived in Estonia directly from the country of his or her nationality or country of permanent residence, or who has arrived in Estonia indirectly from another country in which the alien is also threatened by such persecution or expulsion to a country where such persecution threatens the alien; 3) who has submitted an application for asylum to the Board of Citizenship and Migration or the Board of Border Guards (before the amendments introduced in 1999: directly to the government of the Republic). The court has annulled a majority of the resolutions on non-granting asylum due to the omissions in their processing.

None of the asylum applicants is in custody. Most of them are accommodated at the temporary reception centre in the village of Aa, Ida-Virumaa. Ida-Virumaa Illuka reception centre is in completion stage and can hopefully be used already as from March 2000. During their stay at the reception centre, the applicants for asylum are entitled to medical help, a limited amount of translation/interpretation services, legal counselling and a limited allowance.

Last year brought along several changes both in the domestic asylum legislation and in the mechanism for supporting refugees and asylum applicants in the non-government sector. First, we should mention the increased interest of international organisations and EU supervisory bodies in Estonia's refugee policies

which fortunately and inevitably has also prompted the development of related legislation, increased training opportunities and accumulated practical experience. The European Commission in conjunction with the UN Office of the High Commissioner for Refugees has prepared a technical assistance programme for harmonisation of the asylum requirements of ten Central and East Europe candidate states with the European *acquis*. Within the framework of that PHARE horizontal programme (PHP), the “National Action Plan for the adoption of the EU *acquis* on asylum: Estonia” was prepared. The action plan states, within one document, the data related to the needs and shortcomings of Estonia, and formulates constructive proposals for the solution of the major problems. These proposals were used in developing the new legislation. Within the programme, a number of work groups has been set up, mostly for the purpose of training government officials (officers of the Board of Citizenship and Migration and the Board of Border Guards, but also administrative judges).

As mentioned above, on 1 September 1999 a number of procedural amendments to the Refugees Act entered into force, under which the resolution on granting asylum shall no longer be decided by the government of the Republic but the Board of Citizenship and Migration. These amendments allow the Board of Citizenship and Migration expedited processing of an application where the country of origin of the applicant is safe, where the applicant has arrived in Estonia from a safe third country or where the application is obviously unjustified. Under the Act, for the purposes of identifying a safe third country, the principles developed by the UN Office of the High Commissioner for Refugees are to be used. The amendments also specify the obligations and rights of asylum applicants in respect of both the initial and permanent reception centres.

On 1 October 1999, related amendments to the Aliens Act also entered into force under which an alien may apply for a temporary residence permit on the basis of international treaties. This amendment gives the asylum applicants a theoretical possibility to apply for a temporary residence permit to stay in Estonia on humanitarian grounds under, e.g., the Convention for the Protection of Human Rights and Fundamental Freedoms, Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. This option will hopefully provide a solution to a situation where a person whose asylum application is rejected cannot be sent back to the country of origin or residence on the basis of the *non-refoulemen* principle.

In early September, a cooperation agreement related to the previously mentioned area was concluded in the non-government sector, viz. the cooperation agreement between the UN Office of the High Commissioner for Refugees, the Estonian Red Cross and the Concordia International University Estonia for the purpose of launching a project to provide legal assistance to refugees and asylum applicants. Under the agreement, a law clinic was set up by the Concordia University to use students for alleviating the workload of the lawyers involved in the project. The project is coordinated by the Estonian Red Cross and financed by the Open Estonia Foundation.

Within the framework of the project and in keeping with the cooperation agreement a series of training courses were provided for the lawyers, administrative

judges, state officials involved in the project and for the students interested in the work of the clinic. The number one goal of the project is to guarantee that each asylum applicants can use a counsel for free, if desired, primarily for the purpose of exercising their right of appeal upon violation of their rights or freedoms but also for providing legal assistance to applicants already in the early stages of the asylum application process or in any other issues.

Thus, it can be said Estonia is transforming from one-time transit country of the refugees into a safe country attractive to them, which in turn has had a positive impact on the development of the related domain of law.

Status of the victims to the repressions by the Soviet authorities

During 50 years, the Soviet occupation authorities repressed, i.e. executed, imprisoned and deported into northern parts of the Soviet Union on political grounds a total of up to 150,000 people which is about 15% of the pre-occupation population of the Republic of Estonia. Currently, about 25,000 of them are alive. Their political rights have been restored. In social life too one cannot observe disparaging of former political inmates and deportees.

In social spheres, the impact of the repression years and the later (or following) repression – restrictions concerning place of study, professions, place of residence, and free movement – can be detected: there are fewer people who were able to receive higher or vocational secondary education, a considerable number of persons have, after having been forced to live in Russia and Latvia, remained there; the citizen associations of those who shared common fate lack activists qualified in humanities. In one's old age, it is not easy to learn something new in an unfamiliar field; it is difficult to return from a place to which one is already accustomed.

When calculating the accumulation period which serves as the basis for payment of pensions, the years spent in custody or exile are multiplied by coefficient 3, which has, on average, substantially increased the accumulation period of those receiving pension. Unfortunately, the right to receive pension under favourable conditions (three years before pensionable age) has not been applied to deported persons.

Moreover, the state of Estonia has not managed to remedy economic injustice. The only compensation for years spent in custody or exile has been calculation of the accumulation period as referred to above. It is caused by the fact that Russia, as a legal successor of the Soviet Union, does not pay compensation for repression to persons living outside the territory of the Russian Federation. There has been no response to the Estonian proposal to discuss these matters. Estonia has no means to pay such compensation from her own finances.

The restitution and compensation for unjustly (from the viewpoint of the state of Estonia also illegally) expropriated property has lingered over a period of time. This has caused a substantial decrease in the value of privatisation vouchers used for compensation; in addition to that, inflation and other economic factors have often decreased the real value of the property to be redeemed.

According to the data of the Estonian Ministry of Finance, the state of affairs as of 1 January 2000 is as follows. The number of files opened concerning the restitution of and compensation for illegally expropriated property is 157,220; the work is still in progress in case of 2510 files. Of decisions to redeem the property, 39% have been implemented, and of compensation decisions, 85% have been implemented. Thus, although the local committee has adopted their decision with regard to 98.3% of all the files, the restitution of and compensation for illegally expropriated property is not finished yet. This means that the injustice experienced by grandparents and parents will be transferred to the next generation (generations).

To date, no cases have been reported where the litigation had been discussed in all three levels of the judicial system and the decision would be unjust. But unawareness may also be caused by still prevailing mistrust of the state and judicial bodies, even publicity itself. The mistrust has deepened in persons who have had to suffer from the repression and late repression and who have been defied by excessive bureaucracy and injustice also in the Republic of Estonia.

Equal rights of sexes

As of the January 1, 1997 the ratio of women to men in Estonia was 115:100 (Eurostat. New Cronos 12. 06. 1999). As of 1998 the average lifetime of men was 64 years and average lifetime of women 75 years (Estonian Statistics Yearbook 1999).

Section 12 of the Republic of Estonia Constitution provides that 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. It follows that men and women are equal before the law. However, problems emerge in the everyday life due to the complicated application of the legal acts, insufficiency of legal acts and remedies in achieving the equal rights.

The trend in the health indicators of women and men points out the mid-1990s as a critical period. Most of the objective and subjective indicators tended to worsen in the beginning of the decade. Improvement has broken through only during the last years.

The women's percentage among the older people is increasing in every age group starting from 60 % among the age group of 60 -64 years to 80 % among the 85 and older ones. (Kalev Katus, Allan Puur, Astra Põldma, Luule Sakkeus. The ageing of the population in Estonia. Tallinn 1999, p 42).

Estonia has ratified the International Labour Organisation Convention No. 100 calling for equal pay for male and female employees for work of equal value (Equal Remuneration Convention)

In accordance with the draft of the ratification act of the amended European Social Charter (drafted in Strasbourg on 3 May 1996, ratified by the Republic of Estonia on 4 May 1998) it is not recommendable for Estonia to ratify for the time being the subsection 3 of Article 4 that recognises the right of male and female employees to receive equal remuneration for the work of equal value... Estonia is

already bound by corresponding international obligations and will be even more after being accepted to the full membership in the European Union. The standard of the Social Charter as compared to the norms of the European Union is higher and the aim of non-ratification is to use the time for achieving the necessary level. According to researches women's remuneration could be by up to 40 % lower than that of men which has created tensions in society that need to be overcome in the first place.

Essential aspect of the ratification of the mentioned article is the incentive for Estonia to do her homework quickly and to proceed on higher level and deal with the equality on the labour market.

The ratification of the Social Charter in 2000 provides basis for fulfilment of numerous recommendations of the European Union to Estonia pertaining to the measures for family support, creation of conditions to women to facilitate the co-existence of family and employment roles, but also measures aimed to change the stereotype and prejudice of the woman's role on the labour market.

Ensuring Children's Rights

The Republic of Estonia joined the UN Convention on the Rights of the Child in 1991 and the convention entered into force in Estonia on 20 November 1991. The convention is thus an inseparable part of the Estonian legal system (Constitution, § 3). The Child Protection Act was passed on 8 June 1992 and entered into force on 1 January 1993. It laid down the internationally accepted rights and obligations of the child and their protection in the Republic of Estonia. The Child Protection Act has been the basis for drafting other legal acts concerning the rights, obligations and relations of the child. But until now, no efficient child protection system has been worked out to cover the whole Estonia.

The non-profit child protection organisations – the Child Protection Union, the Child Fund, etc. – have organised several all-Estonian events to promote awareness of the rights of the child, but the limited support from the state has not enabled these activities to be carried out with adequate coordination and efficiency.

The Child Protection Act was prepared at a time when Estonia had just joined the UN Convention on the Rights of the Child. At that time, Estonia lacked several laws relevant to child protection (Family Law Act, Child Benefits Act, Education Act, Social Welfare Act, Pre-school Child Care Institutions Act, Basic and Upper Secondary Schools Act, Juvenile Sanctions Act, Vocational Educational Institutions Act, Act to Regulate Dissemination of Works which Contain Pornography or Promote Violence or Cruelty, General Part of the Civil Code Act, Employment Contracts Act, Working and Rest Time Act, Planning and Building Act, Food Act, Advertising Act, Non-profit Associations Act, Refugees Act). The need has now arisen to amend and add to the existing Child Protection Act in order to adjust it to other laws. The new draft Child Protection Act was drafted by a special team, but in the beginning of 1999, the senior officials of the Ministry of Social Affairs stopped the drafting.

Children as non-working household members with their changing needs are an important poverty risk factor for the household. The total poverty risk of a household increases with the birth of every new child in the household. (Alleviation of Poverty

in Estonia: Background and Aims, p. 17, Tartu 1999). These conclusions are based on research and have to be taken account of when preparing the present and future steps in child protection. The large share of children below the poverty line in the society points to the low valuation of the child in the society.

Although data have been published according to which all children in Estonia are paid child benefits (Alleviation of Poverty in Estonia: Background and Aims, p. 27, Tartu 1999), it has been actually found that all children do not receive child benefits. According to § 2 (3) of the State Family Benefits Act, benefits are paid to aliens who have temporary residence permits for a term of five years in the same manner as to permanent residents of Estonia, but for not longer until 12 July 2001 unless otherwise provided by an international agreement. Thus, the children who are aliens and who have no residence permits in Estonia with the necessary term of validity do not receive child benefits. Child benefit is received by most of the children of aliens who have received benefits before the year 1995. But if the parents have had any problems in receiving residence permits after 1995, their children do not get child benefits.

The birth rate in Estonia has continuously dropped in the last decade (cf. 1999). The following number of children were born in Estonia during the last twelve years: 1998 – 25,060; 1990 – 22,308; 1991 – 19,320; 1992 – 18,404; 1993 – 15,229; 1994 – 14,178; 1995 – 13,560; 1996 – 13,291; 1997 – 12,626; 1998 – 12,269; 1999 – 12,463. The number of births went up to 2% in 1999 when compared to 1998 (according to preliminary data of the Statistical Office).

Status of national minorities

Before the 1940 Soviet aggression, Estonia was a homogeneous national state. National minorities (mostly Russians, Germans, Swedes, Jews, etc.) accounted for just 8% of the Estonian population. During the Soviet occupation and World War II Estonia lost approximately one-quarter of its pre-war 1,000,000 population due to executions, deportations, war refugees or casualties. The Soviet authorities proceeded to resettle in Estonia, according to different data, between 800,000 and 1.5 million Soviet citizens, most of them Russians, Ukrainians, Belorussians and, to a smaller extent, some other Soviet nationalities. Some of them did not stay here long, others left after the restoration of independence and the third part remained in Estonia.

Exact data about the current composition of the Estonian population will be available after the census in April 2000. Currently, Estonia's population is about 1.45 million, of them 80,000–100,000 are Russian citizens, 260,000–280,000 are without citizenship or are the citizens of other countries. About 100,000 citizens of Estonia are not native Estonians. Of them about 30,000 are legitimate Estonian citizens and 70,000 are naturalised citizens after the restoration of Estonia's independence.

The Estonian Citizenship Act, Aliens Act, Cultural Autonomy of National Minorities Act, Language Act and other acts regulating the relations between the state and national minorities have been tested by experts from the Council of Europe and other acknowledged international organisations and do not contain any provisions discriminatory of national minorities.

As our community of clerks often has a low work culture or is underqualified while prone to red tape, customers are not always treated nicely in public offices. For instance, towards the end of the year, the incapability to organise work forced people applying for residential and work permits to queue up for hours or even days at the Board of Citizenship and Migration. As a result, the Minister of interior Affairs dismissed the General Director of the Board.

Under the Cultural Autonomy of National Minorities Act, the other national minorities besides Russians are Jews, Germans and Swedes. As the percentage of the Russians among national minorities is by far the greatest, the Russians aspire to have the non-Estonian culture funded in proportion to the actual number of national minority representatives, which has caused some tension in the relations between the national minorities. According to the 1989 census, 121 different nationalities were represented in Estonia.

Under article 49 of the Constitution, everyone has the right to preserve his or her national identity.

Some non-Estonians – people with school-age children who had excellent professional qualifications, a high level of education and who possessed great intelligence and thus were and are in a great demand on any labour market – left Estonia after the restoration of independence. They would have been of a great value to the state and society of Estonia.

Those who have remained in Estonia are:

- old people who neither can nor want to understand the realities surrounding them, who nurture nostalgia for the “good old” Soviet Union and whose knowledge of the Estonian language is non-existent;

- middle-aged people of who some have mastered Estonian, assumed the citizenship of Estonia and are now taking actively part in Estonia’s life. The other part of them either cannot or do not wish to do so; they are either aliens or Russian citizens and they are united in the hope that sooner or later Russia will restore the Soviet empire as it was;

- young non-Estonians of who most have learned Estonian and see their future life in Estonia or Europe.

Unfortunately, to this day all those different languages, cultures, religions, political beliefs and values have not enriched Estonian society but, just the opposite, contributed to barriers. This has partly been due to rapid changes that have occurred in the demographic proportions of the population during the Soviet occupation when the percentage of native Estonians decreased from 92% to 64% during 40 years. Tensions between different nationalities are also aggravated by Estonia’s economic situation which is not comparable to that of European welfare societies.

The fact that during the occupation Estonians themselves became a national minority in certain regions of Estonia is a source of constant concern. For instance, Ida-Virumaa is almost entirely Russified and Russian-speaking people without Estonian citizenship constitute the *de facto* majority of the population in that county and in the city of Narva. This complicates the integration of the non-Estonians in Estonian society as well as restricts the Estonians’ possibilities of exercising their constitutional right to use the Estonian language.

Fuelled by the attacks of the chauvinistic circles of the Russian Federation against Estonia's citizenship policies and basing their argumentation on alleged "discrimination of the Russians" in Estonia, certain circles demand the alleviation of citizenship eligibility criteria and the inauguration of Russian as the second official language of Estonia which in their view is a condition precedent to the integration of non-Estonians. However, if the Russian language was granted a special status, it would mean discrimination of the other non-Russian minorities and continuation of the Soviet Russification policies in respect of them.

The Round Table of the National Minorities formed by the president's office, the Round Table of National Cultural Societies by the Ida-Viru county governor's office and the Estonian Union of National Minorities are all active in Estonia. In addition, there are numerous national cultural societies and their associations.

The Riigikogu and the government, which includes the population minister without portfolio, do not consider it neither right nor necessary to change the current citizenship, national minorities or integration policies or the related laws as the current policies have helped avoid open conflicts and contributed to the integration of different nationalities in Estonia. A thorough integration programme, to be ratified in the beginning of 2000, is currently under preparation.

Church and freedom of religion

The freedom of religion is protected in the Republic of Estonia by article 12 of the Constitution under which the discrimination on the basis of religion and the incitement of religious hatred, violence or discrimination is prohibited and punishable by law, and by article 40 which prescribes: "Everyone has freedom of conscience, religion and thought. Everyone may freely belong to churches and religious societies. There is no state church. Everyone has the freedom to exercise his or her religion, both alone and in community with others, in public or in private, unless this is detrimental to public order, health or morals."

As of 1 January 2000, the following churches were active in Estonia: the Estonian Evangelist Lutheran Church, Roman Catholic Church, Christian Pentecostal Church, Estonian Apostle Orthodox Church, Ukrainian Greek Catholic Church, Armenian Apostle Church, Russian Orthodox Church, as well as the old Estonian national religion, Baptist, Methodist, Evangelist, Judaistic, Buddhist, Quaker, Jehovah's Witnesses, Seventh-Day Adventist, Russian Old Believers', Mormon, Krishnaist, Mohammed-Sunnite, Islamic, etc. congregations and abbeys. The cases where the state had imposed restrictions on their or their missionaries' activities have not been detected in Estonia.

After the end of the Soviet occupation in 1991, alongside with ensuring freedom of religion, the state started returning of property that was unlawfully expropriated during the Communist regime to its owners, including churches and congregations, on the basis of legal succession. The most extensive conflict between the legal successors and new owners emerged in the Orthodox Church. The Russian Orthodox Church, subject to the Moscow Patriarchy, which had acquired the property belonging to the Estonian Apostle Orthodox Church during the occupation, protested against recognition of the Estonian Apostle Orthodox Church as a legal owner of the

Church's property. After that, the Tallinn diocese of the Russian Orthodox Church, which was reorganised by the Moscow Patriarchy into the Estonian Orthodox Church subjected thereto in 1993, strove for recognition as the Estonian Apostle Orthodox Church. After these pursuits were rejected as a consequence of a court proceeding, the Estonian Orthodox Church blamed the Estonian state for interfering in the Church matters and restricting the freedom of religion of Orthodox people.

Despite that, we can not perceive returning of property to its legal owner as restriction of human or religious rights. Rather, the fact that the returning of all property to the Estonian Apostle Orthodox Church has not been guaranteed serves as restriction of rights.

The situation concerning the Orthodox Church has not stabilised to date, as the conflict between the Russian Orthodox Church and the Estonian Apostle Orthodox Church gave rise to other conflicts as well. At the end of 1999, the Estonian Orthodox congregations had split into three: a part of the Estonia Apostle Orthodox Church was subjected to Constantinople, the other part attempted to remain an independent national church, the third part – the Estonian Orthodox Church – was subjected to Moscow. These conflicts do not belong to the field of human rights; the state has not interfered either, but has made substantial concessions: all the three branches are allowed to carry out their activities in Estonia without restrictions, although there has been no response on the part of the Estonian Orthodox Church according to law.

Freedom of press

After the end of the occupation, the number of broadcasting stations and journalistic outlets abruptly increased in Estonia. In 1999, at least 792 paper periodicals were published and there were six information agencies, 30 radio stations and the public Estonian Radio with four programmes. There are four national radio stations, one of them is a public service broadcasting operation. Besides, there are many cable radio stations, the larger ones also in part produce their own programmes. Six television stations air their programmes, there are four cable TV systems and three TV programme producers. Access to the Internet – very popular and explosively widespread in Estonia – is free and everybody can disseminate their information via the Internet.

The freedom of press and the right to freely obtain information disseminated for free use is in Estonia protected under articles 44 and 45 of the Constitution, which prescribe the free dissemination of ideas and information and their access from state agencies, local governments and officials. No censorship exists. Under the 1994 Broadcasting Act, the reception and reproduction of TV broadcasts and programmes from the other countries is free, the person forwarding information is protected against disclosure if he or she does wish to; what is prohibited is only the broadcasting of programmes “the content of which is immoral or in conflict with the Constitution or laws”.

Information network is privatised with the exclusion of the Estonian Radio and Estonian Television. Under the Broadcasting Act, they are independent in the creation of their programmes. Both air programmes and separate broadcasts in the languages

of the minorities. The national radio and television transmit information programmes of other countries (Finland, USA, France, Russia, etc.) whereas the private cable TV networks transmit the programmes of nearly all European countries.

The dissemination and sale of newspapers and journals is not limited, however as from 1998 it is prohibited, under the Act to Regulate Dissemination of Works which Contain Pornography or Promote Violence or Cruelty, to display and sell to minors issues which contain sexually explicit material.

The prevalent principles and the *modus operandi* of the fourth estate are quite different compared with the times of occupation. There have been instances when the press has boycotted the government's wish to give information. The most serious conflict between the power and the press occurred in 1993 when the Russian information outlets of Ida-Virumaa and Tallinn refused to publish the materials emanating from the government, legal chancellor and other state institutions. The government did not resort to any unconstitutional acts of force but bought air time from the local radio station and set up its information releases – which shows that in practice the government has no buttons to press to exert pressure on the press.

Estonia does not have a special law to regulate printed press. To date, this area has been self-regulatory and the state has accepted it. The Estonian Newspaper Association (ENA), uniting 46 newspapers, and the Estonian Press Council (EPC) both contribute to the rooting of moral responsibility and good journalistic practices in the Estonian press. On ENA's initiative, the Code of Ethics of the Estonian press was prepared which serves as the basis of the work of the EPC. The EPC also settles the conflicts related to the press.

However, there exists no legislative basis for a citizen, journalists included, to obtain information from state and municipal agencies. The Constitution provides for this right but there are no regulatory or implementation acts to this effect. The concept of state secret is defined by law but no legal definition of business and corporate secret exists. According to the 1998 ENA poll, journalists believed that officials used too much of their discretion in giving information. There exist no certain rules according which public information is granted. The discretion of those who have information at their disposal is the greatest in local self-governments. The journalists were also concerned that certain local government officials demanded the right to review the texts of their interviews before their printing.

As the rights of a journalist and the limits of his or her freedom of speech are not defined by law, such problems are solved by the editorial boards themselves, depending on their political or other priorities. For instance, in 1997 the members of the Estonian Television board, forced by the demands of the governing party, asked the editor and host E.B. of a police programme to resign "upon his own wish" because he had used the vague term "corrupt party" in his programme. When E.B. did not submit his resignation, he was nevertheless punished: he lost his show and on the pretext of "reduced workload" his salary was cut by 50%. No reports on similar events in 1999 have been received.

To date, courts have issued at least 14 judgements where a journalist or editorial board was convicted of defaming or insulting a private person. In 1995, a court procedure was held relating to the publication of a well-known forgery, *The*

Protocols of Zion. The court acquitted the reproducers of the brochure, who were driven by business motives, but decided to have the left-over copies destroyed. This can only partially be treated as an instance of violation of the freedom of speech as it concerned the publication of a forgery which did not contain commentaries on the history and origin of the work. No other precedents of the kind have been in Estonia.

Contrary to the practices of the rest of the world, the laws of Estonia allow to make a journalist accused in insulting a public figure a criminal felon. For instance, the Tallinn City Court found in 1997 that reporter E.T., whose article contained just appraisals of a person, had committed a criminal felony. Under section 130 of the Criminal Code he was fined with 220 kroons. The Supreme Court did not change this judgement, reasoning that any use of negative and disparaging metaphors is degradation of the honour or dignity of another person in an improper manner. As E.T. cannot be punished for his appraisal of another person in a civil procedure, the Supreme Court concluded that the case should be settled by a criminal procedure. This precedent allows to treat any appraisals of politicians as criminal felonies. E.T.'s case is currently proceeded at the European Court of Human Rights.

In 1999, criminal action was brought against a journalist of the business daily Äripäev who, in an attempt to expose corruption in the Commercial Register, bribed a clerk of the Register. The bribing was described in the article. Although the police investigator announced that both the clerk who accepted and the journalist P.S. who gave the bribe and other employees of Äripäev, the editor-in-chief included, would all be tried at court, the case was closed due to absence of *corpus delicti*.

No real imprisonments of journalists have occurred in Estonia.

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