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Committee on the Elimination of Racial Discrimination
Seventy-seventh session
2–27 August 2010**Consideration of reports submitted by States parties under
article 9 of the convention****Draft Concluding observations of the Committee on the Elimination of
Racial Discrimination****Estonia**

1. The Committee considered the 9th to 10th periodic report of the Estonia (CERD/C/EST/8-9), submitted in one document, at its 2038th and 2039th meetings (CERD/C/SR/2038 and CERD/C/SR/2039), held on 19 and 20 August 2010. At its 2047th meeting (CERD/C/SR/2047.), held on 26 August 2010, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the report of the State party, which is in conformity with the Committee's reporting guidelines, as well as the written comments on the list of themes and the oral replies of the delegation to the questions raised by the Committee. It also welcomes the State party's timeliness and regularity in submitting its periodic reports. It appreciates the opportunity thus provided to engage in a continuing and constructive dialogue with the State party.

3. The Committee notes with appreciation the involvement of civil society organisations in the preparation of the report and references made in the report to comments made by these organisations.

B. Positive aspects

4. The Committee welcomes the vision outlined by the State party for an Estonian society where 'everyone will have the opportunity for self-realisation, will feel secure and will participate in the economic, social, political and cultural life of the society,' and efforts undertaken to this end.

5. The Committee welcomes the establishment of several instruments of dialogue and consultation with minority groups, including the Council of Ethnic Minorities under the Ministry of Culture and the Roundtable of Nationalities.
6. The Committee welcomes the adoption of the Equal Treatment Act and notes with interest the announcement made by the State party on extending the prohibited grounds of discrimination under the Act to include language and citizenship.
7. The Committee commends the State party for the recognition of cultural diversity in education, including through the inclusion of subjects on minorities' culture in the public education programmes for basic school and gymnasium. The Committee further notes with satisfaction that minorities have opportunities for learning their mother tongues.
8. The Committee welcomes the amendment to the Language Act (§ 23) entered into force in March 2007 which provides for the use of a foreign language or a special regional linguistic form alongside the original text in Estonian on public signs, signposts, announcements, notices and advertisements.
9. The Committee commends the State party for recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals, in accordance with article 14 of the Convention. The Committee also notes with interest the commitment expressed by the State party to ratify the United Nations core human rights treaties to which it is not a party.

C. Concerns and recommendations

10. While noting with interest the work of the Chancellor of Justice and the Equal Treatment Commissioner, the Committee regrets that no national human rights institution fully compliant with the Paris Principles (General Assembly Resolution 48/134) exists in the State party (art. 2 (1)).

The Committee reiterates the importance of establishing an independent national human rights institution compliant with the Paris Principles and recommends that the State party continue, in consultation with the civil society, consideration of all possible options for developing such institution including by transforming and empowering the Chancellor of Justice and the Equal Treatment Commission so as to conform with the Paris Principles and take steps towards accreditation by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).

11. The Committee notes that the provision of article 151 of the Penal Code limits the prosecution of hate speech to acts that result in serious consequences. The Committee also notes that the State party wishes to fill this lacuna in the Penal Code. (arts. 4 (a) and (b))

Recalling general recommendation No. 15 (1993) on article 4 of ICERD, the Committee reminds the State party that the exercise of the right to freedom of opinion and expression carries with it duties and responsibilities, and that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression. Therefore, the Committee recommends that the State party:

- (a) ensure that revision of its Penal Code brings it in line with article 4 of ICERD by making racially motivated hate speech in all circumstances an offence punishable by law; and
- (b) prohibit racist organizations.

The Committee also invites the State party to ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems (CETS No. 189).

12. The Committee notes with concern that racial motivation does not constitute an aggravating circumstance for crimes in general. The Committee also notes the intention of the State party to establish racial motivation as an aggravating circumstance under Estonian criminal law. (arts. 4 and 6)

The Committee recommends that, in the context of the revision of the Penal Code, the State party include a specific provision to ensure that the motive of ethnic, racial or religious hatred is taken into account as an aggravating circumstance in proceedings under the criminal law, thereby completing its good intentions in this respect

13. While noting with appreciation the vision of the Estonian Integration Strategy, the Committee is concerned that the strong emphasis on the Estonian language in the objectives and implementation of the Strategy may run counter to the overall goal of the strategy by contributing to resentment among those who feel discriminated against, especially because of the punitive elements in the language regime. (art. 5)

The Committee considers the overemphasis on language in the Integration Strategy and the punitive elements therein as unnecessary in view of the growing number of persons using the Estonian language, the official language of the State. In this regard, the Committee recommends that the State party:

(a) **adopt a non-punitive approach to the promotion of the official language and revisit the role of the Language Inspectorate and the implementation of the 2008 regulation on requirements for Estonian language proficiency. The Committee also urges the State party to allocate sufficient resources for the provision of free-of-charge language courses;**

(b) **lessen language requirements for naturalization, particularly for older persons and those who were born in the State party; and**

(c) **consider a dual language approach as regards delivery of public services, particularly in light of the prohibition of discrimination in access to public goods and services as provided for by the State party's legislation. The Committee also calls on the State party to review its legislation which restricts the use of minority language in public services only to counties where minorities make up half of the population.**

14. The Committee notes with concern the very low level of participation of minorities in political life and the limited representation of minorities in Parliament. (art. 5 (c))

In view of the fact that the civil and political integration of minorities is an objective of the Estonian Integration Strategy, the Committee recommends that the State party redouble its efforts to ensure greater participation by members of minorities in public life, including in Parliament, and take effective steps to ensure that they participate in the administration at all levels.

15. While noting with appreciation that reducing the number of persons with undetermined citizenship remains an objective for the State party and welcoming the steps taken to facilitate naturalization for long-term resident minorities, the Committee remains concerned at the persistently high number of persons with undetermined citizenship and at the reported negative perception of the naturalization procedure by applicants. (art. 5 (d))

The Committee reiterates its previous recommendation calling on the State party to enhance efforts to reduce the number of persons with undetermined citizenship. The Committee calls on the State party to examine further the reasons

behind the reluctance of potential applicants to engage in the naturalization process with a view to improving the situation. The Committee also reiterates its invitation to the State party ratify the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons.

16. The Committee notes the information provided by the State party on education and employment among minorities but regrets that the data does not allow for a comprehensive understanding and assessment of the situation of [all ethnic groups and especially] vulnerable groups in the State party. (art. 5 (e))

The Committee recommends that the State party ensure that, in the context of the 2011 census, data is collected on the socio-economic situation of all ethnic groups and especially vulnerable groups on the basis of voluntary self-identification, with full respect for the privacy and anonymity of the individuals concerned. The Committee, in accordance with its general recommendation No. 8 (1990) on the interpretation and application of article 1 of the Convention and paragraphs 10 to 12 of its revised reporting guidelines (CERD/C/2007/1), requests that the State party include such data, disaggregated by ethnic group, nationality and language spoken, in its next periodic report with a view to evaluate the situation of groups within the definition of article 1 of the Convention.

17. While welcoming the various measures and initiatives taken by the State party in favour of the Roma, the Committee regrets the lack of information on the effectiveness of these initiatives and the paucity of information regarding the situation of Roma in general in the State party. The Committee also notes with concern the discrimination reportedly experienced by Roma children in accessing quality education. (arts. 2 and 5)

Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee calls on the State party to conduct research with a view to assessing the real situation of the Roma community in its territory and encourages the State party to participate in initiatives aiming at finding national and regional solutions to the widespread exclusion of the Roma population. The Committee also recommends that the State party bring to an end and prevent any segregation of Roma children in the field of education.

18. The Committee is concerned at the near absence of complaints of acts of racial discrimination logged with courts and other relevant authorities during the reporting period when a significant percentage of persons reported having experienced discrimination in everyday life because of their ethnic background. The Committee further notes that the Convention has apparently been referred to in courts only in cases relating to the granting of pension to military veterans. (art. 6)

Considering that no country is free from racial discrimination, the Committee recommends that the State party verify whether the small number of complaints is not the result of victims' lack of awareness of their rights, fear of reprisals, limited access to available mechanisms, lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party review remedies available to victims to seek redress to ensure that they are effective. In this regard, the Committee also encourages the State party to consider extending the use of conciliation in dealing with racial discrimination cases, when appropriate. The Committee further recommends that the State party continue to raise awareness of the Convention and of Penal Code provisions relating to racial discrimination.

The Committee requests the State party to provide in next report updated information on complaints about acts of racial discrimination and on relevant decisions in penal, civil or administrative court proceedings and by State human rights institutions, including on any restitution or other remedies provided to victims of such acts.

19. While commending the State party's response to the surge in racism following the 'Bronze Soldier crisis,' including by intensifying monitoring by the police and carrying out mass education, the Committee is nonetheless concerned about the continuing existence of latent antagonism between ethnic Estonians and ethnic Russians. The Committee is also concerned about the low level of contact between ethnic Estonians and non-Estonians. (arts. 5 (b) and 7)

The Committee recommends that the State party continue to maintain its vigilance against acts of racism and continue efforts to prevent and combat prejudices and to promote understanding and tolerance in all spheres of life, aimed particularly at young people and the media. Further, the Committee notes with interest the establishment of the Memory Institute, entrusted with providing a thorough and objective account of the status of human rights during the period between 1944 and 1991, and encourages the State party to:

(a) widen the mandate of the Institute to cover the same periods as those investigated by the Estonian International Commission for the Investigation of Crimes Against Humanity;

(b) include experts in various disciplines and sectors of society with various standpoints into its work with a view to reconciliation of perspectives and to ensure sufficient authority for its conclusions; and

(c) build on the lessons learned from the work of the Estonian International Commission for the Investigation of Crimes Against Humanity in this enterprise.

20. The Committee encourages the State party to continue to be mindful of indirect discrimination effects of public policies on vulnerable groups.

21. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990). The Committee further invites the State party to accede to the UNESCO Convention against Discrimination in Education.

22. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

23. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

24. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992. In this connection, the Committee cites General Assembly resolution 61/148 and 63/243, in which the Assembly General strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

25. The Committee recommends that the State party continues its practice of making its reports, at the time of their submission, and the observations of the Committee readily available and accessible to the public and urges the State party to seek resources to publicize them in all official and commonly used languages, as appropriate.

26. Noting that the State Party submitted its Core Document in 2001, the Committee encourages the State Party to submit an updated version in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted by the fifth inter-Committee meeting of the human rights treaty bodies held in June 2006 (HRI/MC/2006/3).

27. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 11, 13 and 17 above.

28. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 12, 14, 16, 18 and 20, and request the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

29. The Committee recommends that the State party submit its 10th, 11th and 12th periodic reports in a single document, due on 14 January 2013, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations.
