



International Covenant on Civil and Political Rights

Distr.: General
4 August 2010

Original: English

Human Rights Committee

Ninety-ninth session

Geneva, 12–30 July 2010

Consideration of reports submitted by States parties under article 40 of the Covenant

Concluding observations of the Human Rights Committee

Estonia

1. The Committee considered the third periodic report submitted by Estonia (CCPR/C/EST/3) at its 2715th and 2716th meetings, held on 12 and 13 July 2010 (CCPR/C/SR.2715 and CCPR/C/SR.2716), and adopted the following concluding observations at its 2736th meeting (CCPR/C/SR. 2736), held on 27 July 2010.

A. Introduction

2. The Committee welcomes the timely submission of the third report of Estonia and expresses its appreciation for the constructive dialogue that the Committee had with the delegation. It welcomes the detailed information provided on measures adopted by the State party and on its forthcoming plans to further implement the Covenant. The Committee is also grateful to the State party for the written replies submitted in advance in response to the Committee's written questions, as well as for the additional detailed information provided orally and in writing by the delegation.

B. Positive aspects

3. The Committee, which notes the sustained commitment by the State party to the protection of human rights, welcomes the following legislative and other measures:

- (a) The adoption of a new Code of Criminal Procedure, which entered into force in 2004;
- (b) The adoption of the Victim Support Act, which entered into force in 2004;
- (c) The amendment to the Penal Code (sect. 133), which entered into force in 2007, which improves the definition of elements of enslavement;

- (d) The amendments to the Police Act and related legislation, which entered into force in 2008;
- (e) The amendments to the Imprisonment Act;
- (f) The adoption of the State Legal Aid Act, which entered into force in 2005;
- (g) The adoption of a new Code of Enforcement Procedure, which entered into force in 2010; and
- (h) The appointment of the Chancellor of Justice as the national preventive mechanism for the prevention of torture.

4. The Committee also welcomes the ratification of, or accession to, the following instruments:

(a) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at abolishing the death penalty, which entered into force in 2004;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which entered into force in 2004;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which entered into force in September 2004.

(d) The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, which entered into force in June 2004; and

(e) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force in 2007.

C. Principal matters of concern and recommendations

5. While noting the information provided by the State party in relation to the competence, mandate and functions of the Chancellor of Justice, the Committee is concerned that this institution is nevertheless not sufficiently involved in the promotion and protection of human rights, in full compliance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, General Assembly resolution 48/134), especially where it concerns the role as a coordinating body and in facilitating cooperation between State institutions and the civil society (art. 2).

The State party should either provide the Chancellor of Justice with a broader mandate to more fully promote and protect all human rights or achieve that aim by some other means, in full compliance with the Paris Principles, and take into account in this regard the requirements for the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

6. While welcoming the adoption of the 2004 Gender Equality Act to combat discrimination against women and the 2008 Equal Treatment Act, the Committee is concerned at the prevalence of discrimination against women in the State party, in particular in the labour market where the pay gap between men and women is about 40 per cent. It is also concerned about the overlap of competence between the Chancellor of Justice and the Gender Equality and Equal Treatment Commissioner in dealing with discrimination complaints, which may impede the effectiveness of both institutions in the

area of gender equality. Furthermore, the Committee is concerned at the lack of human and financial resources granted to the Office of the Gender Equality and Equal Treatment Commissioner, and at the fact that the State party has not yet established the Gender Equality Council (art. 3).

The State party should take appropriate measures to:

(a) Ensure the effective application of the Gender Equality Act and the Equal Treatment Act, especially with regard to the principle of equal pay for equal work between men and women;

(b) Carry out awareness-raising campaigns to eliminate gender stereotypes in the labour market and among the population;

(c) Ensure the effectiveness of the system of complaints filed before the Chancellor of Justice and the Gender Equality and Equal Treatment Commissioner by clarifying their respective roles;

(d) Reinforce the effectiveness of the Office of the Gender Equality and Equal Treatment Commissioner by providing it with sufficient human and financial resources, and

(e) Set up the Gender Equality Council, as foreseen by the Gender Equality Act.

7. The Committee is concerned that the definition contained in the State party's Penal Code (sect. 122) is too narrow and is not in conformity with the definition provided in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, nor with article 7 of the Covenant (art. 7).

The State party should amend its Penal Code in order to ensure full compliance with international norms concerning the prohibition of torture, in particular with article 7 of the Covenant.

8. The Committee is concerned that the State party is not prepared to take the initiative and consider collective reparation for persons deprived of their liberty following the "Bronze Night" events of 2007, but only to address individual submissions of redress (arts. 7, 14).

The State party should decide on what collective reparation is to be granted to persons deprived of their liberty following to the "Bronze Night" events of 2007.

9. While noting the efforts made by the State party to combat trafficking in women and girls, in particular the Development Plan for Trafficking in Human Beings 2006–2009, the Committee is concerned at the persistence in the State party of this phenomenon (art. 8).

The State party should:

(a) Intensify its efforts to address trafficking in women and girls, including through its Development Plan on Reduction of Violence for 2010-2014;

(b) Prosecute, sentence and punish those responsible;

(c) Adopt the amendments relating to insert a specific provision on trafficking in the Penal Code under preparation in the Ministry of Justice; and

(d) Increase international cooperation on this issue.

10. The Committee is concerned that the entry into the country of non-citizens in same-sex partnership, even when their partnership has been officially recognized abroad and their partner is already residing in the State party, remains subject to the immigration quota system (arts. 2, 12, 17, 23, 26).

The State party should review its legislation and practice in order to broaden the rights of persons living in same-sex relationship, in particular to facilitate the granting of a residence permit to non-citizens in same-sex partnership with a partner already residing in the State party.

11. While noting that a person whose asylum application has been rejected can appeal before an administrative court, the Committee remains concerned that according to the Act on Granting International Protection to Aliens, the appeal has no suspensive effect (art. 2, 13).

The Committee reiterates its recommendation that a decision declaring an asylum application inadmissible should not entail the denial of a suspensive effect upon appeal.

12. The Committee is concerned that mentally disabled persons or their legal guardians, where appropriate, are often denied the right to be sufficiently informed about criminal proceedings and charges against them, the right to a fair hearing and the right to adequate and effective legal assistance. The Committee is further concerned by the fact that experts appointed to assess a patient's need for continued coercive treatment work in the same hospital as the one in which the patient is held (art. 14).

The State party should guarantee that mentally disabled persons or their legal guardians, where appropriate, are sufficiently informed about criminal proceedings and charges against them and enjoy the right to a fair hearing and the right to adequate and effective legal assistance for their defence. It should also ensure that experts appointed to assess patients' need of continued coercive treatment are impartial. Furthermore, the State party should provide training to judges and lawyers on the rights which ought to be guaranteed to mentally disabled persons tried in criminal courts.

13. While noting the improvements in the Code of Criminal Procedure to reduce the length of criminal proceedings, the Committee remains concerned that there are no special provisions for criminal proceedings, when the person indicted is detained (art. 14).

The State party should review its Code of Criminal Procedure in order to insert provisions stipulating the need to expedite proceedings where the accused persons are being detained.

14. The Committee is concerned that few of the applications for an alternative to military service have been approved during the last few years (11 of 64 in 2007, 14 of 68 in 2008, 32 of 53 in 2009). It is also concerned about the lack of clear grounds for accepting or rejecting an application for an alternative to military service (art. 18, 26).

The State party should clarify the grounds under which applications for an alternative to military service are accepted or rejected and take relevant measures to ensure that the right to conscientious objection is upheld.

15. While noting that the present draft Public Service Act presented to Parliament includes a provision restricting the number of public servants not authorized to strike, the Committee is concerned that public servants who do not exercise public authority do not fully enjoy the right to strike (art. 22).

The State party should ensure in its legislation that only the most limited number of public servants is denied the right to strike.

16. While noting the implementation of the "Integration in the Estonian society 2000–2007" programme and the "Estonian Integration 2008–2013" programme by the State party, the Committee is concerned that the Estonian language proficiency requirements continue to impact negatively on employment and income levels for members of the

Russian-speaking minority, including in the private sector. The Committee is further concerned by the fact that the confidence and trust of the Russian-speaking population in the State and its public institutions have decreased (art. 26, 27).

The State party should strengthen measures to integrate Russian-speaking minorities into the labour market, including with regard to professional and language training. It should also take measures to increase the confidence and trust of the Russian-speaking population in the State and its public institutions.

17. The Committee is concerned that information on the Covenant, its concluding observations and reports submitted by the State party is not widely disseminated, including among prosecutors, judges and lawyers. It is also concerned by the limited relationship between the State party and non-governmental organizations and the fact that non-governmental organizations are not fully consulted in the process of drafting reports submitted to the Committee (art. 2).

The State party should take all appropriate measures to disseminate, both in Estonian and Russian, the Covenant and, making full use of the State party's proficiency in information technology, the concluding observations adopted by and the reports submitted to the Committee. It should provide training to prosecutors, judges and lawyers on the Covenant and reinforce its relationship with non-governmental organizations, and consult them in the process of drafting periodic reports to the Committee.

18. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the current situation and on its implementation of the Committee's recommendations given in paragraphs 5 and 6 above.

19. The Committee requests the State party to provide, in its next periodic report due to be submitted by 30 July 2015, information on action taken to implement the remaining recommendations and its compliance with the Covenant as a whole.