

**Fifth Periodic Report on the Implementation of
the International Convention on the Elimination of All Forms of
Racial Discrimination
Submitted by the Republic of Estonia
under Article 9 of the Convention**

List of Appendixes

1. List of cultural societies, associations and groups

I GENERAL INFORMATION

1. This Report provides a detailed overview of measures taken by Estonia with respect to the Convention on the Elimination of All Forms of Racial Discrimination.

2. The estimated population in Estonia at the beginning of 2001 was 1 370 100* people. The major ethnic groups were as follows:

Estonians – 939,310

Russians – 403,925

Ukrainians – 36,467

Belorussians – 21,125

Finns – 12,762

* *Source: 2000 Population and Housing Census*

3. Among the permanent population 80.8% were born in Estonia, 13.9% in the Russian Federation, 1.8% in Ukraine, 1.1% in Belarus, 1.6% in other countries, for 0.8% of the residents the country of birth is unknown.

In addition to Estonian citizens, the permanent population of Estonia includes citizens of various other countries. 80.1% of the population hold Estonian citizenship, 6.2% Russian citizenship, 0.2% Ukrainian citizenship, 0.1% Latvian citizenship, 0.1% Belorussian citizenship, 0.1% Lithuanian citizenship, 0.1% Finnish citizenship, and 0.1% citizenship of other countries.

4. The distribution of persons with valid residence permits by citizenship at the beginning of year 2001 was as follows:

Citizenship	Percent
Stateless persons	64 %
Russian	32 %
Ukrainian	1 %
Finnish	0,6 %
Belorussian	0,4 %
Lithuanian	0,4 %
American	0,1 %
Others	1,5 %

Source: Citizenship and Migration Board

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Individuals who have received Estonian citizenship by naturalisation since 1992	107 200	111 716	113 764
Estimated number of non-ethnic Estonians holding Estonian citizenship by birth	80 000	80 000	80 000
The total number of Estonian citizen's passports (including children's passports that have been issued).	1 112 753	1 201 066	1 150 000
Alien's passports issued	175 058	174 048	164 849
Total number of valid residence permits	310 666	279 876	273 766

Valid temporary residence permits	282 758	128 803	66 753
Valid permanent residence permits	27 908	151 073	207 013

Source: Citizenship and Migration Board

5. The basic principles of legal protection against discrimination can be found in the Constitution of the Republic of Estonia. Several other laws contain provisions on the prohibition of discrimination, which are presented in more detail under Part II, Article 2.

6. The general legal framework has been described in the CORE document that Estonia presented to the United Nations in 2001.

7. The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, and of local governments. The ministries and public authorities are responsible within their own sphere of activities for implementing the principle of equality within the judicial system and for promoting such equality.

8. One of the major challenges before the Estonian State today is the integration of its sizeable non-Estonian community into Estonian society. The cornerstone of Estonia's integration policy is the implementation of the State Integration Programme pertaining, above all, to a significant reduction in the number of persons with undetermined citizenship, a substantial breakthrough in teaching of the official language and full participation of non-Estonians in Estonian society at all levels.

9. The Government of Estonia has taken several measures to combat racism and ethnic discrimination. These measures can be divided into judicial measures, measures within the framework of the State Integration Plan and measures taken to grant equal opportunities. On 10 February 1998, the Government approved the integration policy document "The Bases of Estonia's National Integration Policy for Integrating non-Estonians into Estonian Society". The policy underwent deliberations in the *Riigikogu* and was adopted by the latter in June 1998. In 1999 the State Programme "Integration in Estonian Society 2000-2007" was elaborated by the Government Expert Commission. After a public discussion, the Government adopted the programme on 14 March 2000. The State Programme is an action plan for governmental agencies and other institutions for the years 2000-2007 in the field of integration.

10. According to the Government action plan, continuous attention is given to activities for raising public awareness. Relevant written and electronic publicity materials are prepared dealing with integration issues. Through the Integration Foundation, a public communication programme has been started to promote integration. The programme involves a comprehensive media campaign aimed at raising the public awareness of integration processes, reducing barriers between the Estonian and Russian-language media, and creating a positive attitude towards different cultures. The integration issues are in more detail dealt under Article 2 of this Report.

11. On 31 March 1998, the Government established The Non-Estonians Integration Foundation to develop and co-ordinate the national integration processes.

12. An expert committee has been established to review population policy assessments, needs, action plans and legislation, and to work out conceptual standpoints. The aim of the Government committee is to work out the national youth and family policy concept and to provide legislative counselling in the issues of youth and family policy. Also a committee has been formed to deal with the issues of integrating ethnic minorities into Estonian society and to make relevant proposals to the Government of the Republic. This committee prepared the Integration Programme, gathering information and proposals from ministries and their agencies, county governments and other establishments and organisations for drawing up the working versions of the national programme.

13. In May 1997, a new post of a Minister for Population and Ethnic Affairs was instituted, who is responsible, *inter alia*, for integration issues. In September 1999, the Estonian Government decided to open a bureau of the office of the Minister for Population and Ethnic Affairs in the northeastern town of Jõhvi. The office has a co-ordinating function and plays an active role in implementing government policies in the region.

14. In June 2001, the local bureau of the Legal Chancellor was opened in Ida-Viru County. The representative of the Legal Chancellor receives people in Narva, Sillamäe and Jõhvi. Opening of the bureau of the Legal Chancellor gives people of Ida-Viru County a better access to the office of the Legal Chancellor for submitting applications and petitions.

Judicial measures

15. Conventions ratified by Estonia after submitting of the first CERD Report:

- The amended and revised European Social Charter;
- European Convention on Mutual Assistance in Criminal Matters;
- European Convention on Information on Foreign Laws;
- European Convention on the International Validity of Criminal Judgements;
- European Convention on the Transfer of Proceedings in Criminal Matters;
- Additional Protocol I of 8 June 1977 relating to the Protection of Victims in International Armed Conflicts to Geneva Conventions of 12 August 1949;
- Additional Protocol II of 8 June 1977 relating to the Protection of Victims in Non-International Armed Conflicts to Geneva Conventions of 12 August 1949;
- European Convention on the Service Abroad of Documents relating to Administrative Matters;
- European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children;
- Additional Protocol to the European Convention on the Transfer of Sentenced Persons;
- Civil Law Convention on Corruption.

16. The Draft Gender Equality Act has been drawn up and approved by the Government. The aim of the Act is to guarantee the implementation of the principle of gender equality in social and political life. The Act is intended to hinder discrimination on the basis of sex, to promote gender equality in society in general, improving the situation of the disadvantaged or underrepresented sex in all fields of

social life, first and foremost in employment. The Draft Act aims at achieving gender equality and the Act also stipulates using of positive measures or special treatment.

17. Under the leadership of the Ministry of Justice, the Draft Equality Act has been drawn up that regulates promoting and protecting of equality on the basis of sex, race, nationality, age, disability, sexual orientation, religious or political beliefs. The aim of the Act is to guarantee equality as equal rights, obligations, possibilities and responsibility of all people in employment, education and other cases prescribed by law. The Draft Act sets out creating of an equality council that will monitor and analyse the implementation of the principles of equality and carry out supervision over the conformity with the principle of equality.

Part II

INFORMATION CONCERNING ARTICLES 2 – 7

Article 2

18. Racism, intolerance and discrimination are combated in several ways. First of all, the Constitution of the Republic of Estonia provides the basic principles. Chapter II of the Constitution guarantees the fundamental rights, freedoms and duties.

19. The rights, freedoms and duties of each and every person, as set out in the Constitution, shall be equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia (Article 9). Rights and freedoms may be restricted only in accordance with the Constitution. Such restrictions must be necessary in a democratic society and shall not distort the nature of the rights and freedoms restricted (Article 11).

20. According to the Constitution, everyone is equal before the law. 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. The incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or discrimination between social strata shall, by law, also be prohibited and punishable (Article 12).

21. The Constitution sets out that everyone has the right to the protection of the state and of the law. The law shall protect everyone from the arbitrary exercise of state authority. The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, and of local governments (Articles 13, 14).

22. In order to give effect to the provisions of the Constitution in relation to the prohibition of discrimination the Parliament has adopted several legislative acts.

23. The following are examples of the current laws that prohibit discrimination:

- 1) Article 5 of the *Advertising Act* prohibits all offensive and discriminating advertising. An advertisement is offensive if it is contrary to good morals and customs, calls on people to act unlawfully or to violate prevailing standards of decency, or if it contains such activities. An advertisement is considered offensive in particular if the advertisement presents, incites or endorses discrimination on the grounds of nationality, race, colour, sex, age, language, origin, religion, political or other opinion, and financial or social status or other circumstances.
- 2) Article 5 of the *Wages Act* provides the principle of equal pay for the same work or for work of equal value and prohibits discrimination on grounds of sex with regard to all aspects and conditions of remuneration.
- 3) Article 10 of the *Employment Contracts Act* prohibits illegal preferences and restriction of rights as follows: “It is illegal to allow or give preferences, or to restrict rights on the grounds of the sex, ethnicity, colour, race, native language, social origin, social status, previous activities, religion, political or other opinion, or attitude towards the duty to serve in the armed forces of employees or employers.” Under the preparation is the *Draft Employment Contracts Act* that prohibits direct and indirect discrimination.
- 4) The *Employment Services Act* establishes the principles of the rendering of employment services. According to the principles, upon provision of employment services, preferences shall not be given, and the rights of persons who seek employment shall not be restricted on the grounds of their nationality, sex, age, type of disability, sexual orientation, colour, race, social origin, social status, religion, political or other beliefs, or representation of the interests of employees or employers, unless it is prescribed by other Acts (Article 6).
- 5) The *Draft Gender Equality Act* clarifies the terminology and definitions with regard to the principle of equality, prohibits direct discrimination and provides measures against indirect discrimination.

Estonian penal legislation

24. The penal law reform started in 1995 on the initiative of the Ministry of Justice to develop a flexible system of sanctions and to introduce effective alternatives to imprisonment. The Penal Code is one of the most important laws in the legislative package intended for the implementation of the penal law reform (Draft Code of Criminal Procedure, Draft Code of Misdemeanour Procedure). Several important draft laws foreseen in the concept of the penal law reform have already been passed: including Probation Supervision Act, State Compensation of Victims of Crime Act and Imprisonment Act.

25. On 6 June 2001, the Parliament adopted the new Penal Code that will replace the current Criminal Code. At the present moment, a special act is prepared to introduce the new code.

26. The Criminal Code provides punishments for acts motivated by racism or racial discrimination in the special chapter that includes, *inter alia*, crimes against humanity

and incitement of racial hatred. These crimes have been described in more detail under Article 4.

Criminal Procedure

27. The Draft Code of Criminal Procedure is currently in proceedings of the Parliament and it is one of the draft laws that are drawn up within the penal law reform. By replacing the current Code of Criminal Procedure the new law will have to provide a basis for proceeding of the offences stipulated in the Penal Code.

28. Pursuant to Article 13 of the Code of Criminal Procedure, justice in criminal matters is administered according to the principle of equality of persons before the courts regardless of the person's origin, social status, financial situation, race, nationality, gender, education and other circumstances.

Civil and administrative law provisions

29. Principles of non-discrimination are also prescribed under civil and administrative procedure.

30. Pursuant to Article 6 of the Code of Civil Court Procedure, all persons are equal before the law and the court in the administration of justice in civil matters.

31. An important improvement in Estonian legislation is the new Administrative Court Procedure Act that took effect on 1 January 2000. Under the old law, everyone had the possibility to dispute the acts and procedures of administrative bodies and officials and the court had the powers to declare the disputed acts or procedures illegal and the court proposed the pertinent body or official to review the matter and to make a new decision or to perform a new procedure.

32. According to the new law, the administrative court has more powers and the court has also powers to quash the legal act in its entirety or partially. The administrative court may also decide that the administrative body or official should pay satisfaction to compensate the damages caused by the illegal legislative act or illegal procedures.

33. Another important legal act is the State Liability Act that establishes the protection and restoration of rights that have been violated in the course of implementation of powers by public authority and in the exercise of other public functions, and provides the basis and procedure for the compensation of damage caused (state liability).

34. According to this Act, a person whose rights have been violated through unlawful activity of a public authority in a public-legal relationship may demand that both material and non-material damage caused to him or her be compensated. A natural person may demand monetary compensation of non-material damage in the case of culpable degradation of his or her dignity, damaging of health, deprivation of liberty, infringement of inviolability of home or private life or confidentiality of information, and defamation of honour and good name. An application for the compensation of damage may be filed with the administrative agency that caused the damage or a

complaint may be filed with an administrative court. The State Liability Act will enter into force on 1 January 2002.

System of compensation and rehabilitation for victims

35. According to Article 25 of the Constitution everyone has the right to compensation for moral and material damage caused by the unlawful action of any person.

36. The protection of private life is regulated by the General Principles of the Civil Code Act that stipulates that everyone has the right to demand termination of a violation of the inviolability of his/her private life and to demand compensation for moral and proprietary damage caused thereby (Article 24). Also a person whose interests are damaged by use of his/her name or publicly used pseudonym may demand compensation of damage (Article 25).

37. A person has the right to demand termination of defamation, refutation of defamatory information concerning the person and compensation for moral and proprietary damage caused by the defamation by a court proceeding, unless the defamer proves the accuracy of the information. If inaccurate information is disseminated through a mass medium, it will be refuted in the same mass medium. A document that contains inaccurate information will be replaced (Article 23).

38. According to the Act for the Compensation of Damage Caused to the Person by the State through Unfounded Deprivation of Liberty, the damage is compensated to the person:

- who was under arrest with the permission of the court and in whose matter the ruling to initiate criminal proceedings has been annulled, the proceedings have been terminated in the stage of preliminary investigation or investigation or at an organising meeting of the court, or with respect to whom an acquitting decision has been made;
- who had been detained as suspected of committing a crime and was released in connection with dropping of charges;
- who was serving a sentence of imprisonment and in whose case the decision to convict has been annulled and proceedings of criminal matter terminated or an acquitting decision has been made;
- who served a sentence of imprisonment longer than the term of sentence originally imposed on him/her;
- who had been placed in a psychiatric hospital without ground by the court in connection with committing of an act with characteristics of an offence and in whose case the court ruling has been annulled;
- who served an administrative arrest and the decision of arrest has been annulled;
- who had been deprived of liberty without ground or without disciplinary, administrative or criminal proceedings, with the decision of an official authorised to warrant deprivation of liberty, if such a proceeding was compulsory (Article 1).

39. The Ministry of Social Affairs has submitted to the Government a national criminal prevention sub-programme "Creating a system for assisting victims of crime". Victims of crime include people who have become victims of negligent or bad

treatment, physical, mental or sexual violence, i.e. people who have been caused suffering or damage by another person, group of persons or organisation, regardless of whether the person causing the damage has been revealed or whether criminal proceedings have been brought against that person. The aim of the sub-programme is to create an organised database of victims of crime.

40. In Estonia, there are currently assistance services to help victims of crime, there is *Ohvriabi* Society for Supporting Victims of Crime, and there are also shelters. Through the Social Rehabilitation Centre and the Society for Supporting Victims of Crime, counselling of victims, their representation in court, providing financial support, and crisis assistance are organised. Conciliation of victims is provided through conciliation services.

41. The central law with regard to the sub-programme is the State Compensation of Victims of Crime Act. The aim of the law is to regulate alleviating of the financial situation of victims of severe violent crimes by way of payment of compensation by the State. State aid is given to the victims also within social welfare and social insurance framework, but these systems do not cover all victims in need of assistance and the aid doesn't also cover the whole amount of damage arising as a result of the crime. The system of payment of compensation described in the law is an important supplement to the assistance provided to victims of crime as one target group within social law. Compensation is paid only to those victims of crime who do not receive compensation from other sources for the damage caused through crime.

42. Estonian citizens and foreigners residing in Estonia on the basis of a temporary or permanent residence permit have the right to compensation of damage as a result of violent act of crime. The compensation is not meant to compensate fully to the victim the damage caused to him/her but to support the financial situation of the victim and his/her family or prevent the deterioration of the situation.

43. According to the State Compensation of Victims of Crime Act, the amount of compensation by the state is 50%, i.e. half of the amount of damage which is the basis for calculating the compensation. In calculating the damage, the law proceeds from the individual situation of every victim or his/her dependants, i.e. mainly the victim's income before the violent act of crime was committed.

Integration of non-Estonian-speaking population into Estonian society

44. The Government proceeds from the constitutional principle to guarantee the preservation of the Estonian nation and culture through the ages, at the same time protecting the human rights and freedoms of everyone living in Estonia irrespective of their ethnic origin, religion, language and citizenship.

45. The concept of integration of non-Estonian-speaking population into Estonian society has been implemented since 1999 when the State Programme "Integration in Estonian Society 2000-2007" was elaborated by the government expert commission. After a public discussion, the Government adopted the programme on March 14, 2000. It has also been submitted to the Riigikogu (Parliament) for discussion and is

available to everybody (in Estonian, Russian and English) on the Internet - <http://www.riik.ee/saks/ikomisjon/>

46. The integration programme is based on Estonia's national and social interest, on the goal of developing an European, integrated society and preserving stability. The task of the State is both to support the development of Estonian culture and guarantee minorities opportunities for cultural development.

47. The State Programme is an action plan for governmental agencies and other institutions for the years 2000-2007 in the field of integration.

48. According to the State Programme, the nature of integration in Estonian society is characterised by two processes:

- social harmonisation of the society, based on the knowledge of the Estonian language and the possession of Estonian citizenship, and
- creating conditions for maintaining ethnic differences based on the recognition of cultural rights of ethnic minorities.

The harmonisation of the society is a two-way process – integration of both Estonians and non-Estonians around a strong common core.

49. The outcome of the integration process is multicultural society in Estonia, characterised by cultural pluralism, a strong common core and the development of Estonian culture.

50. There are positive changes in attitudes of both Estonians and non-Estonians to integration. The survey carried out in 1999 showed that the integration process has reached a phase of acclimatisation among non-Estonians and a phase of tolerance among Estonians.

51. The main aims of integration as specified in the Programme are:

Linguistic-communicative integration, i.e. a common sphere of information and recreation of the Estonian-language environment under conditions of cultural diversity and tolerance. The emerging of a common Estonian-language society will take place in parallel to the creation of favourable conditions for the development of the languages and cultures of ethnic minorities.

Legal-political integration, i.e. the formation of the population loyal to the Estonian state and the reduction of the number of persons without Estonian citizenship. The naturalisation process will become more productive and conditions for effective participation of citizens, regardless of their ethnic origin, in political structures will be created.

Socio-economic integration, i.e. the increase of the competitiveness and social mobility of every member of Estonian society through intensive language training and various regional policy initiatives.

52. The main aims of the state programme lead to objectives to which the following four sub-programmes correspond:

Sub-programme “Education” pursuing the following objectives:

A. Elementary school graduates are socially competent and have medium level knowledge of the Estonian language;

B. Secondary school graduates have the level of knowledge of the Estonian language necessary for everyday life and work and are capable to continue studies in Estonian;

Sub-programme “The education and culture of ethnic minorities”, the objective being that ethnic minorities possess opportunities to acquire education in their mother tongue and preserve their culture.

Sub-programme “The teaching of Estonian to adults” aimed at creating opportunities for non-Estonian adults to improve their knowledge of Estonian and raise their socio-cultural competence.

Sub-programme “Social competence” setting the following objectives:

A. Individuals participate actively in the development of civil society;

B. Attitudes of Estonians and non-Estonians are favourable to the achievement of the main aims of the state programme;

C. Improvement of the situation of socially vulnerable groups.

Table 1. Consolidated budget for sub-programmes for the years 2000-2003*

Sub-programme	Budget (in '000 EEK)				
	source	2000	2001	2002	2003
I. Education	state budget	14276,2	13126,6	22891,8	23432,8
	foreign aid	12681,5	10555,5	18174,1	7900,2
	TOTAL	26957,7	23682,1	41065,9	31333
II. Education and culture of ethnic minorities	state budget	2873,7	2830	3665	3515
	foreign aid	521	1348	750	750
	TOTAL	3394,7	4178	4415	4265
III. Teaching of Estonian to adults	state budget	1130,8	1288	1125	1325
	foreign aid	12617	5081,38	11532,5	4066,78
	TOTAL	13747,8	6369,38	12657,5	5391,78
IV. Social competence	state budget	1236,1	1332,6	2020	2035
	foreign aid	2172,3	5871,6	4531	3330
	TOTAL	3408,4	7204,2	6551	5365
V.Part: Management and evaluation of the State Programme and insitutional capacity-building	state budget	3279,2	4394,2	4620	4610
	foreign aid	2454,8	1973,5	1970	1850
	TOTAL	5734	6367,7	6590	6460
SUM TOTAL I-V:	state budget	22796,0	22971,4	34321,8	34917,8
	foreign aid	30446,6	24830,0	36957,6	17897,0
	TOTAL	53242,6	47801,4	71279,4	52814,8

** It does not include other direct allocations for integration by local governments, private enterprises, embassies, etc. Also, it does not include permanent support by the state and local governments for administrative costs for the functioning of Russian-medium school system, Russian-language public media, and cultural institutions of ethnic minorities.*

53. In 2000-2003, activities will be financed mainly from the budgets of several ministries (incl. Ministries of Education, Defence, Culture, Agriculture, Internal Affairs, and Social Affairs) and from the state budget resources of the Integration Foundation. Also, the budget includes foreign aid resources, incl the EU Phare Programme, Canada, Denmark, Sweden, Finland, Norway, United Kingdom, United States, UNDP, and others. Several activities will be implemented jointly from the resources of ministries and foreign donors in the framework of co-financed projects.

Other activities promoting integration

54. In recent years, the Government of Estonia has taken a number of significant political and administrative steps to further the integration process:

55. (a) in the field of education, the Ministry of Education and the Integration Foundation have jointly organised the publishing of a large number of study materials (dictionaries, study books, CD-s, language proficiency test materials, etc) as well as training courses for teachers at Russian-medium schools and language training firms. By May 2000, about 3700 graduates from Russian-medium gymnasiums and about 2000 graduates from Russian-medium basic schools have registered for the Estonian language proficiency test, which is now unified with the Estonian language state exam at Russian-medium schools.

56. In December 1999, a large-scale project (3.624 million Canadian dollars over 4 years) "Language immersion in Estonian schools" was launched by CIDA, Toronto School Board, Finland and the Council of Europe.

57. Also, about 3000 Russian-speaking children participated in language camps and stayed in Estonian families in summer 2000 to promote their fluency in the Estonian language and strengthen contacts between Estonian-speaking and Russian-speaking youth;

58. (b) in the field of language training, the EU Phare Estonian Language Training Programme (hereinafter the Phare Programme) has significantly increased the motivation of non-Estonians to pass the Estonian language proficiency level tests. By May 2000, about 7000 people have registered for Estonian language courses in the framework of a course fee reimbursement system established by the Phare Programme.

59. Also, the Phare Programme is organising language training for socially high-priority groups, as well as risk groups from north-east region of Estonia, including non-Estonian police officers, recruits, medical workers, unemployed persons, etc. It will improve their professional skills and the knowledge of Estonian;

60. (c) in the field of social security, the Integration Foundation has elaborated and launched a model of professional practice in other regions of Estonia for Russian-speaking persons from North-East region of Estonia, including police officers, teachers, local government officials, medical workers, etc.;

61. (d) in the field of mass media, a large-scale media campaign "Integrating Estonia" was launched in August 1999 with a total budget of 2.5 mln EEK. In the framework of the media campaign, public advertising campaigns "Lots of great people" and "Interest" are launched, integration-related TV series "Estonia on the air" are produced, an integration-oriented Russian language insert "Istoki" of the newspaper "Põhjarannik" is published, etc. As the development of the media campaign has indicated, media enterprises are playing an increasing role in funding and promoting integration-related activities in mass media;

62. (e) in the field of culture and education of ethnic minorities, cultural societies of ethnic minorities have received significant financial and technical support, including 2 485 000 EEK from the State Budget and 420 000 EEK from foreign donors in 2000. In addition to the funds of the State Programme in 2000, local governments have stepped up their support to cultural and educational activities of ethnic minorities. For example, Tallinn City Government has allocated 5 mln EEK in 2000 to support cultural societies of ethnic minorities;

63. (f) in the field of citizenship issues, the Citizenship and Migration Board, the Integration Foundation and other institutions are elaborating a new model for the citizenship exam in order to make it more comprehensive. Also, the Citizenship and Migration Board has carried out customer service training for its officials, produced materials for applicants for residence permits and citizenship, etc. Special attention is paid to increasing its capacity to process applications for residence permits, e.g. ensuring access to relevant information via the Internet, etc.

64. On the initiative of the Citizenship and Migration Board, every year in November Citizen's Day is celebrated nationwide in Estonia. The events of the day are mainly organised by the Citizenship and Migration Board. The events focus on the importance of becoming and being a citizen, social integration, and promoting it through the media, educational institutions and elsewhere.

65. In cooperation with the Nordic countries/ United Nations Development Programme, in the framework of the project "Support to National Integration Programme" a training project "Increasing the integration potential of the Citizenship and Migration Board" has been started. The main aim of the training project is to raise the customer service quality of the Citizenship and Migration Board in order to promote integration of non-Estonians in Estonia. In the framework of the project of the Council of Europe and European Commission, five different sets of information materials in Russian were prepared by the Citizenship and Migration Board to explain the residence permit. The materials were distributed first and foremost in schools in Ida-Viru county and Tallinn, in Ida-Viru county also direct mail distribution was used. In the framework of the same project a documentary video film "A Foreigner in Own Country" was produced that will be distributed in Russian-language schools.

66. In June 1999, a pilot project "Estonian Language and Civic Training in the Estonian Defence Forces" was launched. On 29 November 1999, the Minister for Population and Ethnic Affairs and the Minister of Defence signed an agreement whereby all conscripts of non-Estonian origin will have the possibility to study Estonian during their first three months of military service. In 2000, the Ministry of Defence allocated 750,000 EEK from its budget to finance this initiative. Together with 400,000 EEK provided by the EU PHARE Estonian language training programme through its refunding project, a total of 1,150,000 EEK will be spent to improve the language skills of recruits.

67. In 2000, 5.7 million EEK was allocated from the state budget to the Integration Foundation to implement activities fostering integration. The Foundation, entrusted with the task of co-ordinating the use of relevant resources, has to date supported more than 50 integration-related projects from these resources.

Most important results of the State Integration Programme in 2000

68. I. Sub-programme "Education"

- Preparation and implementation of the transition to Estonian as language of instruction in non-Estonian-language state and municipal upper secondary schools, including:
 - 47 headmasters of Russian-language schools completed administrative training and 71 headmasters completed training in language immersion.
- The improvement of the quality of Estonian language instruction in non-Estonian-language schools, including:
 - Language immersion methodology was introduced in 4 Russian-language schools
 - 1050 teachers participated in 62 training sessions of the regional continuing education network for the teaching of Estonian as a second language
 - Tens of sets of Estonian language teaching materials and materials for teaching subjects in the Estonian language were published
- Strengthening of contacts between Estonian and non-Estonian-speaking youth and families, including:
 - Roughly 3000 non-Estonian-speaking children participated in Estonian summer language camps and family study

69. II. Sub-programme "The education and culture of ethnic minorities"

- Support for the activities of ethnic cultural societies, art groups and Sunday schools, including:
 - Financing of about 160 different projects and other activities

70. III. Sub-programme "The teaching of Estonian to adults"

- Organising teaching of Estonian to adults, including:
 - Estonian courses in which about 8000 students participated
 - Implementation of a campaign to encourage language learning, entitled *Interest*

71. IV. Sub-programme "Social competence"

- Support for political and legal integration, including:

- The celebration of Citizens' Day on 26.11.00 and carrying out of an extensive social advertising campaign entitled "A richer country", encouraging application for citizenship
- Development of a new model for the examination of the knowledge of the Constitution of the Republic of Estonia and of the Citizenship Act
- Distribution of information by organising information days, programmes, and campaigns, publishing articles, including:
 - Support for two television programme projects (*Eetris on Eesti, Sputnik*)
 - An extensive tolerance-building social advertising campaign entitled "Lots of great people" was implemented

72. V. Part "Management and evaluation of the State Programme and institutional capacity-building"

- A general monitoring survey and a media monitoring survey were ordered from research groups, and the results are assembled in the publications "Integration in Estonian society: monitoring 2000" and "The reporting of integration processes in the Estonian media in 2000"
- An interim evaluation of the EU Phare *Estonian Language Training Programme* 1998-2000 and the Nordic Countries/ United Kingdom/ United Nations Development Programme project "Support for the State Integration Programme" 1998-2001 was ordered from an independent international assessment commission

Other measures to combat discrimination

73. On 7 September 1999, the Estonian Government decided to open a bureau of the office of the Minister for Population and Ethnic Affairs in the north-eastern town of Jõhvi, and allocated 876,100 EEK to this end. The office has a co-ordinating function and plays an active role in implementing government policies in the region. One of the tasks of the office is to foster co-operation between the Minister's office and several organisations, cultural associations and NGOs representing various ethnic groups, thus enabling them to participate more actively in the policy-making process.

74. On 6 June 2001, local office of the Legal Chancellor was opened in Narva City Government building. A representative of the Legal Chancellor receives people also in Sillamäe and Jõhvi. Reception of persons is on two days a week in order to guarantee access of all people to the institution of the Legal Chancellor. In addition, articles introducing the activities of the Legal Chancellor are published in the media in Ida-Viru county, including the newspaper *Virumaa Teataja*.

75. In addition to the aforementioned legislative, judicial and administrative measures, a non-judicial International Commission for Research into Crimes Against Humanity was formed in 1998 that presents the results of its research to the President of the Republic and to the Prime Minister of Estonia. In 1999 the Foundation for Research into Crimes Against Humanity was formed whose task is to organise and finance the activities of the commission. It is the task of the Research Commission to ascertain crimes perpetrated against humanity by the Nazi and Soviet occupation authorities in Estonia in 1939-1991. Public figures from Estonia and abroad have been invited to participate in the work of the Commission, also representatives of non-governmental organisations.

76. In 1993, the Government formed the Criminal Prevention Council. The basic principles for criminal prevention have been established in the development concept "Description and Development Strategy of the System for the Prevention of Crime for 2000-2003". On the national level, prevention work is done according to the "National Strategy for the Prevention of Crime until 2005".

77. The activities of the Criminal Prevention Council take place on three levels: national, local government and population level. On the national level, different ministers and law enforcement agencies are involved in the prevention work to guarantee effective implementation of the strategy by ministries. Representatives of local government units and regions are involved in the work of the Council in order to raise problems of local crime on national level and to guarantee feedback between the national and local government. On the level of the population, representatives of non-profit associations and pertinent business undertakings participate in the work of the Council. The work involves also representatives of scientific institutions in order to analyse the causes of criminal situations, which is a basis for working out successful preventive measures and their assessment.

78. In 1997, training of civil servants, workers of different ministries, boards, inspectorates, city and county governments was started with the aim to create a network and establish contact persons who would be able to recognise and analyse cases of discrimination. A network of civil servants has been created involving representatives of the Ministry of Social Affairs, Ministry of Internal Affairs, Ministry of Agriculture, Ministry of Justice and Ministry of Education.

79. In June 2001, there was a seminar in cooperation of the Ministry of Internal Affairs and the FBI on the topic of preventing national hatred. The training was intended for police officers, prosecutors and judges, and it was aimed at preparing the society for the situation when conflicts originating on the basis of national or other prejudices should become a serious problem. Lectures given by FBI agents were attended by police officers from Tallinn, Tartu and Pärnu.

80. In 2001 Ministry of Internal Affairs has organized for police officers different seminars concerning human rights issues, for instance: "Protection of human rights", "Family violence"; "Protection of human rights in Europe and in Estonia"; "Humanitarian affairs and human rights".

81. In Estonia, during the last years some cases have been reported concerning racism against dark-skinned people coming to Estonia for study or work. From October 1999 to August 2000, altogether 7 such cases were registered, and all were connected with the so-called *skinheads*. The activities of the *skinheads* are higher in urban areas (Tallinn, Tartu). Basically, these were cases of oral insult, physical violence occurred only in one incident. In five of the seven cases mentioned, those guilty were identified and punished by administrative courts with arrest and fines.

82. Though in Estonia a rightist extreme is presently lacking and the *skinhead* movement remains low in numbers and is unorganised, the relevant state authorities are determined to block any *skinhead* movement or a domestic emergence of a possible extreme right and to cut off their international contacts, in cooperation with

partner services of other countries. The security police have for years been keeping the activities of these extremist-minded organizations under surveillance, in case there is information about possible crimes being planned by their members. Special attention has so far been given to identifying and arraigning people inciting racist and nationalist animosity on leaflets, posters and compiling and spreading it over the Internet pages.

Article 3

83. In 1991 the Estonian Parliament ratified the Convention on the Prevention and Punishment of the Crime of Genocide.

There is no racial segregation or apartheid in Estonia. The provisions of the Criminal Code for the punishment of statements or actions that involve discrimination on ethnic grounds are presented under Article 4.

Article 4

a) Criminal laws prohibiting racial discrimination

84. Estonia has adopted several legislative acts to prohibit all forms of racial discrimination. Acts motivated by racism or racial discrimination are punishable under the provisions of the Criminal Code.

As it was said above, criminal law reform is underway since 1995. In the focus of the reform, the new Penal Code has been adopted. The new Penal Code establishes somewhat stricter punishments for these offences and also makes it punishable to discriminate on the basis of hereditary risks. There is a separate section on the punishment of the crime of genocide.

85. The Criminal Code makes the following crimes punishable:

Article 61¹. Crime against humanity:

(1) Committing a crime against humanity, including genocide, as those crimes are defined in the provisions of international law, that is wilful acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, group offering resistance to the occupying regime or other group, killing or causing serious or permanent or life threatening bodily or mental harm or torturing members of the group, forcibly taking away children, armed attack, deportation or banishment of native population in the time of occupation or annexation, depriving or limiting economic, political and social rights – is punishable by eight to fifteen years' imprisonment or by life imprisonment.

(2) Representative of an authority under whose consent a crime indicated in the first section was committed, shall be liable as an accomplice for committing the crime.

Article 72. Incitement of national, racial, religious or political hatred, violence or discrimination:

(1) Incitement of national, racial, religious or political hatred, violence or discrimination is punishable by a fine or detention or up to one year's imprisonment.

(2) The same activities, if they resulted in a death or injury of a person or any other severe consequences, are punishable by up to three years' imprisonment.

Article 72¹. Violation of equality:

Directly or indirectly restricting a person's rights or granting a person direct or indirect preferences on the basis of his or her nationality, race, colour, sex, language, origin, religion, political or other conviction, financial or social status or other circumstances is punishable by a fine or detention.

86. The new Penal Code establishes the following types of crimes and respective punishments:

Article 88. Punishment for the offences against humanity and international security:

(1) In addition to the direct perpetrator of the offence against humanity and international security, the representative of state power or military authority who has given a command for committing the offence or under whose consent the offence has been committed or who has not prevented committing the offence although it has been in his or her power, shall be punished.

(2) Commission of a crime against humanity and international security under a command of the representative of state power or military authority does not exclude the punishment of the perpetrator of the crime.

Article 89. Crime against humanity:

Systematic or large scale deprivation or delimitation of human rights and freedoms, also the killing, torture, rape, causing bodily harm, forced transfer, deportation, forcing to prostitution, unfounded deprivation of liberty or other wrongful treatment of civilian population, instigated or directed by the State or by an organization or group, is punishable by eight to ten twenty years' imprisonment or by life imprisonment.

Article 90. Genocide:

Killing, torturing, causing bodily harm, imposing measures intended to prevent births within the group or forcibly depriving children of a national, ethnic, racial, religious group, of a group offering resistance to the occupying regime or of other social group or its member, with intent to destroy the group, in whole or in part, also putting members of a group to living conditions that have caused a danger to bring about destruction of the group, in whole or in part, is punishable by ten to twenty years' imprisonment or life imprisonment.

Article 151. Incitement of social hatred:

Activities that have publicly called on hatred or violence in connection with nationality, race, colour, sex, language, origin, religion, political conviction, financial or social status are punishable by a fine or up to three years' imprisonment.

Article 152. Violation of equality:

Unlawful restriction of a person's rights or granting a person unlawful preferences on the basis of his or her nationality, race, colour, sex, language, origin, religion, political conviction, financial or social status are punishable by a fine or up to one year's imprisonment.

Article 153. Discrimination on the basis of genetic risks:

Unlawful limitation of a person's rights or giving unlawful preferences to a person on the basis of his or her genetic risks is punishable by a fine or up to one year's imprisonment.

87. According to Article 105 of the Code of Criminal Procedure, crimes against humanity (Criminal Code Article 61¹), incitement of national, racial, religious or political hatred, violence or discrimination (Criminal Code Article 72) and violation of equality (Criminal Code Article 72¹) are under the investigative jurisdiction of the Security Police.

88. The most important task of the Security Police in re-independent Estonia has been the protection of the constitutional order and territorial integrity that may be threatened by forces operating domestically or in foreign countries. Crimes against the state are as a rule characterised by high level of conspiracy and setting of long-term objectives. Arising from this, the task of the Security Police is to keep potential anti-constitutional activities of extremist-minded persons and movements under control.

89. The main resources and forces of the Security Police are used for preventive action and so far crimes under preparation have been stopped without applying criminal sanctions.

In the near future the Security Police will continue to control groups of extremist-minded persons in order to prevent and obstruct anti-constitutional activities and if necessary carry out pre-trial criminal procedures.

90. Under Article 72¹ of the Criminal Code, the Security Police has initiated one criminal case [1998]. On the basis of Article 72¹ of the Criminal Code, the Security Police has initiated 14 criminal cases. Under this provision, 3 persons have been convicted [1995 – 1 (Tartu City Court), 1998 – 2 (Tallinn City Court)].

Table 2. Recorded and cleared offences in 1999-2001

Criminal Code	1999		2000		2001 11 months	
	Recorded	Cleared	Recorded	Cleared	Recorded	Cleared
Art 61 ¹	2	0	3	0	2	0
Art 72	1	1	2	1	2	2
Art 72 ¹	0	0	0	0	1	0

Source: Ministry of Internal Affairs

Table 3. Number of definitively sentenced persons in 1999-2000

Criminal Code	1999	2000
Art 61 ¹	3	2
Art 72	0	2
Art 72 ¹	0	0

Source: Ministry of Justice

b) Prohibition of organizations and organized propaganda activities which promote and incite racial discrimination

(i) Prohibition of propaganda activities

91. Incitement of racism in the media is prohibited by the Advertising Act that stipulates restrictions on offensive advertising. This Act prohibits advertisements that are contrary to good morals and customs, call on people to act unlawfully or to violate prevailing standards of decency, or if they contain such activities.

An advertisement is considered offensive in particular if the advertisement:

- 1) presents, incites or endorses discrimination on the grounds of nationality, race, colour, sex, age, language, origin, religion, political or other opinion, and financial or social status or other circumstances;
- 2) calls on people to behave violently or incites violent behaviour in order to achieve an objective or in choosing the manner in which to achieve an objective;
- 3) degrades lawful behaviour or directly or indirectly justifies violation of the law as a means of achieving an objective;
- 4) plays on superstition, fear or sympathy;
- 5) contains any direct statement or visual presentation regarding a sexual act, inappropriate nudity or socially unacceptable sexual behaviour; or
- 6) presents false information concerning other persons, their products or services, or other facts.

92. The activities of the press are supervised by the Press Council. It is a self-regulating body for the press that operates in two main fields: protection of the freedom of speech against any restricting attacks and public complaints against the press. Self-regulation means that the press supervises and disciplines itself, without waiting for interference from outside (the state power, the courts). This is essential from the point of view of increasing the liability of the media that goes with the freedom of expression, openness of society and, most importantly, with the well-informed public. The Estonian Press Council has been described in more detail under Article 7 of this Report.

93. Holding of public gatherings and public meetings is regulated by the Public Assemblies Act. According to the Act, a public meeting may be organised by a natural person, legal person or an association that is not a legal person.

94. At least seven days prior to holding a public meeting, the organiser of the meeting has to submit a notice of organising the meeting:

- 1) to rural municipality or city government on whose administrative territory the meeting is to take place;
- 2) to county government if the meeting is to be held on the administrative territory of several rural municipalities or cities of this county;
- 3) to the Government of the Republic if the public meeting is to be held on the administrative territory of several counties.

95. If the meeting incites national, racial, religious or political hatred, violence or discrimination between social strata or in any other way contradicts the law, the Minister of Internal Affairs or the local police prefect may prohibit holding a public meeting with his or her justified proposal, informing the organiser of it in three days

after the notice was registered. Prohibition by the Minister of Internal Affairs or a police prefect to hold a meeting can be challenged in the administrative court.

96. Holding of public meetings has been described in more detail under Article 5 (ix) of the Report.

97. Criminal or administrative charges may be brought against organisers for holding an unlawful meeting.

Pursuant to the Article 76¹ of the Criminal Code, it is punishable to hold a public meeting for which the notice for public meeting required by the Public Assemblies Act was not submitted or if the notice was not registered or if holding the meeting was banned. The punishment is either a fine or up to three years' imprisonment. Obstructing the holding of a legal public meeting or dispersing such a meeting by use of violence or threat of violence is punishable with a fine, detention or up to two years' imprisonment (Article 76²).

98. Pursuant to Article 142 of the Code of Administrative Offences, violation of the rules of public order is punishable by a fine of up to fifty fine units. Holding a public meeting by ignoring the requirements of the Public Assemblies Act is punishable by a fine of up to 150 units or an administrative detention of up to ten days (Article 155). For a call to participate in a prohibited public meeting, the administrative court may impose a fine of up to fifty units or an administrative detention of up to ten days (Article 155¹).

(ii) Prohibition of organizations which promote or incite racial discrimination

99. According to Article 40 of the Non-profit Associations Act, a non-profit association may be dissolved by a court judgment at the request of the Minister of Internal Affairs or another interested person if:

- 1) the objectives or activities of the non-profit association are contrary to law, the constitutional order or good morals;
- 2) the activities of the non-profit association do not comply with the objectives in the articles of association;
- 3) economic activity becomes the main activity of the non-profit association;
- 4) the management board does not submit a petition for dissolution provided by law;
- 5) in other cases provided by law.

100. The Criminal Code and the new Penal Code also regulate dissolution of criminal associations and punishment for membership in such associations.

101. Criminal Code Article 196¹. Membership in or forming of criminal organisation or recruiting of members thereto or leading such organisation or part thereof:

(1) Membership in a criminal organisation, i.e. a permanent organisation consisting of three or more persons who share a distribution of tasks and whose aim is or whose activities are directed at the commission of criminal offences in the first or second degree, is punishable by three to eight years' imprisonment.

(2) Forming an organisation specified in subsection (1) of this section, recruiting of members thereto or leading such organisation or a part thereof is punishable by five to ten years' imprisonment.

(3) A member of a criminal organisation who did not participate in the preparation, attempt or commission of any of the criminal offences committed by such organisation shall be released from punishment if he or she voluntarily gives notice of his or her membership in such organisation.

102. Criminal Code Article 201¹. Violation of public order or attacks against person or his or her rights in course of exercise of one's religion:

(1) Forming or leading a grouping whose activities in the course of proclamation of religious doctrine or a religious ceremony are related to violation of public order, damaging the health of persons or other attacks to the life or rights of persons, or inducing a person to refuse to perform his or her civil duties, is punishable by a fine or detention or up to five years' imprisonment.

(2) Active participation in the activities of a grouping specified in subsection (1) of this section, or promoting of the commission of acts prescribed by the religious doctrines or ceremonies of such grouping, is punishable by a fine or detention or up to three years' imprisonment.

103. New Penal Code Article 235. Association against the constitutional order of the Republic of Estonia:

(1) Membership in a permanent association consisting of three or more persons who share a distribution of tasks, which is created with the aim of carrying out activities directed against the independence and sovereignty of the Republic of Estonia, also forming, leading or recruiting members to such association is punishable by up to six years' imprisonment.

(2) The act specified in subsection (1) of this section if it is committed by a legal person is punishable by a fine or compulsory liquidation.

104. New Penal Code Article 255. Criminal association:

(1) Membership in a permanent association consisting of three or more persons who share a distribution of tasks and whose activities are directed at the commission of criminal offences in the first degree or at exerting illegal influence on authorities is punishable by three to twelve years' imprisonment.

(2) For the offence specified in this section, the court may impose an additional fine to the extent of assets.

105. New Penal Code Article 256. Formation of criminal association:

(1) Forming, leading or recruiting members to a criminal association is punishable by five to fifteen years' imprisonment.

(2) For the offence specified in this section, the court may impose an additional fine to the extent of assets in accordance with law.

c) Not to permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

106. The Constitution and articles of the Criminal Code that make racial discrimination punishable are of general character and are applicable to everybody.

107. The Public Service Act regulates employment relationships in institutions performing legislative, executive or judicial functions or exercising state supervision and control or executing national defence. The Act establishes the conditions and procedure for employment in public service. For violation of service duties, officials are liable pursuant to the Employees Disciplinary Punishments Act and procedure established by other laws.

108. In addition to the perpetrator of crimes against humanity set out in the Criminal Code, also the representative of the authority with whose consent the crime was committed is held liable. The representative of authority is liable as an accomplice to the crime.

109. In the chapter of the Criminal Code on official misconduct, the following crimes have been criminalized:

Article 161. Misuse of official position:

Intentional misuse by an official of his or her official position, if it significantly violates the rights or interests of a person, enterprise, agency or organisation which are protected by law or if it violates national interests, is punishable by a fine or up to three years' imprisonment.

Article 161¹. Abuse of authority:

An official who illegally uses a weapon or violence or commits torturous or insulting acts against a victim while performing official duties shall be punished by up to six years' imprisonment.

110. The State Liability Act establishes the protection and restoration of rights that have been violated in the course of implementation of powers by public authority and in the exercise of other public functions, and provides the basis and procedure for the compensation of damage caused (state liability). The State Liability Act is described in more detail under the general part of this Report.

Article 5

a) The right to equal treatment before the tribunals and all other organs administering justice

111. Article 15 of the Constitution states that everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional. The courts shall observe the Constitution and shall declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided by the Constitution or which is otherwise in conflict with the Constitution. Article 146 of the Constitution stipulates that justice shall be administered solely by the courts.

112. Article 3 of the Courts Act says that function of a court is to protect the rights and freedoms of every person in compliance with the Constitution and Acts of the Republic of Estonia. Every citizen has the right to judicial protection in cases of violations against life, health, personal freedoms, property, honour and dignity, and violations of other rights and freedoms ensured by the Constitution. Justice is administered on the principle that all citizens are equal before the law and the court. Citizens of foreign states and stateless persons have the right to judicial protection in the territory of the Republic of Estonia equal to the right to judicial protection of Estonian citizens unless otherwise provided by international agreements entered into by the Republic of Estonia.

113. Pursuant to Article 15 of the Legal Chancellor Act, everyone has the right of recourse to the Legal Chancellor to review the conformity of an Act or other legislation of general application with the Constitution or the law.

114. Pursuant to Article 13 of the Code of Criminal Procedure, justice in criminal matters is administered according to the principle of equality of persons before the courts regardless of the person's origin, social status, financial situation, race, nationality, gender, education and other circumstances.

115. Pursuant to Article 6 of the Code of Civil Court Procedure, all persons are equal before the law and the court in the administration of justice in civil matters.

116. Article 7 of the Administrative Court Procedure Act stipulates that a person who finds that his or her rights have been violated or his or her freedoms have been restricted by an administrative act or measure has the right to file an action with an administrative court. An action for the establishment of the existence or absence of a public law relationship or the unlawfulness of an administrative act or measure may be filed by a person who has legitimate interest in the matter.

b) The right to security of person and protection by the state against violence or bodily harm

117. The basic provisions relating to the right to security of person and protection by the State are to be found in Chapter II of the Constitution.

118. Pursuant to Article 13 of the Constitution, everyone has the right to the protection of the state and of the law. The Estonian state shall also protect its citizens abroad. The law shall protect everyone from the arbitrary exercise of state authority. Everyone has the right to life. This right is protected by law. No one will be arbitrarily deprived of his or her life.

119. Article 17 of the Constitution establishes that no one's honour or good name will be defamed. No one shall be subjected to torture or to cruel or degrading treatment or punishment. No one shall be subjected to medical or scientific experiments against his or her free will.

120. The Criminal Code sets out activities that entail criminal liability and stipulates punishments and other sanctions that can be applied in respect of persons who have committed offences.

121. The Criminal Code stipulates in the Chapter on offences against persons punishments for killings (Article 100), the acts of violence against person (Article 113), torture (Article 114).

122. The Chapter on offences against administration of justice establishes liability for forcing a person to testify (Article 171), as well as liability for violence against witness, victim, complainant or defendant in civil proceedings, expert, specialist, interpreter or translator, impartial observer in investigative activities, offender, or persons close to them, or for threatening the above persons. There is a separate section on torture of persons who are in custody in penal institutions or applying of illegal measures of control with respect to them (Article 176⁴).

123. The functions of criminal procedure are to detect criminal offences speedily and fully, ascertain offenders and ensure correct application of law, so that everyone who has committed a criminal offence is justly punished and no innocent person is charged with a criminal offence or is convicted.

124. Pursuant to Article 90 of the Code of Criminal Procedure, the reasons and grounds for commencement of criminal proceedings are:

- 1) appearance for voluntary confession;
- 2) petitions by persons;
- 3) notices by enterprises, agencies, officials, and non-profit organisations and working collectives;
- 4) information published in the press;
- 5) detection of the elements of a criminal offence by a preliminary investigator, court or judge.

125. Preparation of a crime and attempted crime are also punishable by a criminal sentence. Preparation of a crime means acquiring of an instrument or a tool to commit a crime or in any other way intentionally creating conditions for it. An attempted crime is an intentional act that is directly directed at the commission of a crime if the crime was not completed because of a reason beyond the control of the offender. Punishment for preparation of a crime and attempted crime is imposed on the basis of the relevant provisions of the Code that establish liability for respective crimes. When imposing a punishment the court will take into account the offender's person, severity and type of the crime, degree to which the criminal intentions were completed and the reasons interrupting the completion of the crime.

126. Participation in a crime means intentional common participation by two or more persons in the commission of a crime. Participants in a crime, besides the perpetrator, are the organiser, instigator and accomplice. Perpetrator is the person who directly committed the crime. Organiser is the person who organised or led the commission of the crime. Instigator is the person who incited to commit the crime. Accomplice is the person who assisted in the commission of the crime with advice, guidance, provision of an instrument or a tool, removal of an obstacle or in any other way by creating a favourable situation, as well as person who previously promised to conceal the

offender, the instrument or tool of committing the crime, traces of the crime or the object obtained through the crime. When imposing a punishment the court will have to take into consideration the degree and character of each person's participation in the commission of the crime.

127. In accordance with Article 38 of the Criminal Code, the following conditions may constitute an aggravating circumstance in imposing a punishment: commission of a crime with use of exceptional cruelty or taunting of a victim, or commission of a crime by a group of persons or against a child, person of advanced age, person in helpless condition, insane person or person of unsound mind, or making use of other person's subordinate position or other dependence on the offender; incitement to a commission of crime or inducement to participation in a crime of a minor or a person with limited ability to understand or direct one's actions, or making use of a person who is not subject to criminal liability in the commission of a crime.

128. Estonia has acceded to the UN International Covenant on Economic, Social and Cultural Rights, the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and other international conventions prohibiting torture and degrading treatment.

c) The right to participate in elections

129. Article 56 of the Constitution stipulates that the supreme power of state shall be exercised by the people through citizens with the right to vote:

- 1) by electing the Riigikogu;
- 2) through a referendum.

An Estonian citizen who has attained eighteen years of age has the right to vote. An Estonian citizen who has been divested of his or her legal capacity by a court does not have the right to vote (Article 57). Participation in voting may be restricted by law for Estonian citizens who have been convicted by a court and are serving sentences in penal institutions (Article 58).

130. The Referendum Act provides the procedure for submission of a bill or other national issue to a referendum and referendum procedure. An Estonian citizen who has attained 18 years of age by the date of referendum may participate in a referendum.

131. Pursuant to the Riigikogu Election Act, members of the Riigikogu are elected in free elections on the basis of a general, uniform and direct right to vote, by secret voting. An Estonian citizen with the right to vote who has attained eighteen years of age by election day has the right to vote. An Estonian citizen with the right to vote who has attained twenty-one years of age by election day and whose oral and written knowledge of Estonian enable him or her to participate in the work of the Riigikogu may run as a candidate for member of the Riigikogu.

132. In September 2001, members of the Parliament initiated a bill to eliminate language requirement from the Riigikogu Election Act and the Local Government Council Election Act. The proposal for the bill derives from the premise that there is no practical need for such a provision. Integration process in society is the best

guarantee for achieving the necessary language proficiency. Excluding the provision from the Act would also be in conformity with Article 25 of the UN Covenant for Civil and Political Rights according to which every voter must have the right to decide who of the Estonian citizens running for Riigikogu or local council best represents his or her interests in the relevant representative body, regardless of the knowledge of language of the candidate.

133. In accordance with Article 3 of the Language Act, the language of public administration in the Riigikogu and local governments as well as in all state agencies is Estonian. The working language of the Riigikogu can be regulated with the Riigikogu Rules of Procedure Act. In addition to the Language Act, the use of language in local government bodies is also regulated with the Local Government Organisation Act. Article 41 of the Act stipulates that the working language of local government bodies is Estonian. The use of foreign languages, including the use of languages of national minorities in local governments is also established with the Language Act. The Parliament adopted the amendments to eliminate language requirement from the Riigikogu Election Act and the Local Government Council Election Act on 21st November 2001.

134. Estonia is one of the few countries in the world where non-citizens, regardless of their origin, are entitled to vote in local government elections.

135. Pursuant to the Local Government Council Election Act, an Estonian citizen has the right to vote

- (3) if he or she has attained eighteen years of age by the election day;
- (4) if he or she resides permanently in the territory of the local government;
- (5) if he or she has not been divested of his or her active legal capacity by a court. .

136. An alien has the right to vote in local government council elections

- 1) if he or she has attained eighteen years of age by the election day;
- 2) if he or she resides permanently in the territory of the local government;
- 3) if he or she resides in Estonia on the basis of a permanent residence permit;
- 4) if he or she has resided legally in the territory of the corresponding local government for at least five years by 1 January of the election year;
- 5) if he or she has not been divested of his or her active legal capacity by a court.

137. Pursuant to the Act, an Estonian citizen may run as a candidate,

- 1) if he or she has attained eighteen years of age by election day;
- 2) if he or she is entered in the national register established for the registration of electors in the rural municipality or city on 1 August of the election year at the latest;
- 3) if his or her oral and written knowledge of Estonian enables him or her to participate in the work of the council;
- 4) if he or she has not been divested of his or her active legal capacity by a court.

138. Last Parliamentary elections were held in March 1999. The overall number of citizens eligible to vote was 857,270. The election turnout was 57.4% with the total of 484,239 citizens casting their vote.

139. Last elections to local government councils were held in October 1999. 1,058,818 people were included in the polling lists, 194,525 of whom were resident

foreigners. 50.9% of citizens and 49.4% of foreigners exercised their right to vote making for the overall voter turn-out of 49.4%.

140. In the capital Tallinn two electoral lists composed largely of Russian-speaking politicians are represented in the city council, one of them being part of the ruling coalition and thus also the city government. One of the vice-chairmen of the city council comes from this list and two out of eight districts of the city are governed by non-Estonians.

141. It is a criminal offence to obstruct a person to exercise the right to vote. The Criminal Code in the chapter on offences against a person's political and employment rights establishes punishments for obstructing a person in exercising his or her right to vote or be elected as well as punishments for falsifying the election or voting document or result or for violating the secrecy of voting as follows:

Article 131. Preventing the exercise of the right to vote:

Preventing a voter with violence, deceit or threat or in any other way from freely exercising his or her right to vote or be elected President of the Republic, member of the Riigikogu or member of a local government council, or from voting on a referendum held in accordance with the laws of the Republic of Estonia or from making agitation prior to elections or referendum, as well as buying a voter's vote is punishable by a fine or up to one year's detention.

Article 132. Falsifying an election or voting document or results or violating the secrecy of voting:

Falsifying an election document or voting document or results, knowingly miscalculating the votes or violating the secrecy of voting in the elections of the President of the Republic, Riigikogu or local government council or in a referendum held in accordance with the laws of the Republic of Estonia is punishable by a fine or deprivation of the right to hold certain office or engage in certain activities or up to one year's imprisonment.

Article 132¹. Disseminating a lie or other fiction dishonouring the President of the Republic, member of the Riigikogu or candidate for member of a local government council, or degrading his or her honour and dignity:

Knowingly disseminating a lie or other fiction dishonouring the President of the Republic, member of the Riigikogu or candidate for member of a local government council, or degrading their honour and dignity in any way is punishable by a fine or detention.

142. The Code of Administrative Offences establishes punishment for agitation at a rally, meeting, picket, or publishing agitation material in mass media, or using other active or passive means of agitation with the aim of affecting election results on the day of election of the President of the Republic, Riigikogu or local government council or on the day of a referendum.

143. According to the Code of Administrative Offences, failure to present data or materials for the organisation of an election, as well as failure to comply with the decision of the election committee or violation of other provisions of the Acts for the

election of the President of the Republic, Riigikogu or local government council is punishable by a fine of up to twenty fine units.

d) Other civil rights

(i) The right to freedom of movement and residence within the borders of the state.

144. Pursuant to Article 34 of the Constitution, everyone who is legally in Estonia has the right to freedom of movement and to choice of residence. The right to freedom of movement may be restricted in the cases and pursuant to procedure provided by law to protect the rights and freedoms of others, in the interests of national defence, in the case of a natural disaster or a catastrophe, to prevent the spread of an infectious disease, to protect the natural environment, to prevent the leaving of a minor or a person of unsound mind without supervision, or to ensure the administration of a criminal procedure.

145. The Wartime National Defence Act stipulates that in the time of war rights and freedoms of people may be restricted and obligations imposed on them on the cases and in accordance with procedure established by law and in the interests of public order. However, also in the time of war:

- 1) it is the duty of the legislative, executive and judicial power and local governments to guarantee rights and freedoms;
- 2) in the case of violation of one's rights and freedoms a person can have recourse to court. Nobody may be deemed guilty of an offence before a convicting judgement has entered into force with regard to him or her.

146. In the interests of national security and public order, certain rights of people may be restricted, including the right to move freely and choose one's residence. Restrictions of these rights may be established by the Government of the Republic or in certain cases also by the Commander of the armed forces (Wartime National Defence Act Article 5).

147. The Aliens Act regulates the arrival, presence, residence and work of foreigners in Estonia and the basis for legal liability of foreigners. The Obligation to Leave and Prohibition on Entry Act regulates the basis and procedure of the obligation of foreigners to leave and prohibition to enter Estonia.

148. The Citizenship and Migration Board issues a precept to leave Estonia to foreigners who have no legal basis to stay in Estonia during the term specified in the precept. Before issuing the precept a foreigner has the right to an oral hearing with an official and to submit objections and applications. A representative of the foreigner has the right to participate at the hearing and issuing of the precept. The foreigner confirms with a signature the receipt of the precept that is issued in writing. Upon issuing of the precept the foreigner is explained his right to appeal and the consequences of the failure to comply with the precept. The content of the precept is explained to the foreigner in a language that he or she understands. When issuing a precept against a minor who is in Estonia without a parent, guardian or other representative, the person's departure from Estonia is organised by a guardianship institution in coordination with competent authorities of the admitting state.

149. A foreigner is expelled from Estonia if he or she does not comply with the precept with good reason. The decision of expulsion is made by an administrative judge on the request of the Citizenship and Migration Board pursuant to the procedure provided in the Code of Administrative Offences. The court judgement on expulsion can be appealed. When deciding expulsion the court takes into account the following circumstances (Article 14(2) of the Obligation to Leave and Prohibition on Entry Act):

- 1) the duration of the alien's legal stay in Estonia;
- 2) personal, economic and other ties which the alien has with Estonia and which merit protection;
- 3) the consequences of the expulsion of the alien for the family members of the alien;
- 4) circumstances which are the basis for expulsion;
- 5) the age and state of health of the alien;
- 6) the possibility of enforcing the expulsion;
- 7) other relevant considerations.

150. An alien may not be expelled to a state to which expulsion may result in his or her torture, inhuman or degrading punishment or treatment, or death or persecution for racial, religious, social or political reasons (Article 17(2)).

151. Article 21 of the Refugees Act stipulates that the Republic of Estonia will not expel or return an applicant or refugee to a state where his or her life or freedom would be threatened on account of his or her race, nationality, religion, membership of a particular social group or political opinion.

Refugees

152. On 1 September 1999, the Government of the Republic regulation no. 250 of 18 August 1999 on the designation of government agencies involved in issues arising from the Refugees Act entered into force.

153. In September 1999, the Government of the Republic regulation no. 238 of 9 August 1999 on the implementation of the Refugees Act entered into force approving the following:

- 1) the procedure for the initial interview and the conditions and the procedure for the thorough interview;
- 2) the form of the application for asylum;
- 3) the form of the minutes of the initial interview;
- 4) the form of the minutes of the thorough interview with an asylum applicant;
- 5) the form of the minutes of an additional interview with an asylum applicant; the procedure for the issue, exchange, revocation and declaration of invalidity of the certificate of an asylum applicant;
- 6) the form of the certificate of an asylum applicant.

154. The Government of the Republic regulation no. 263 of 31 August 1999 approved the procedure for the expedited processing of an asylum application.

155. The National Register of Refugees was established by the adoption of the Government of the Republic regulation no. 309 of 14 October 1999.

156. The Government regulation “Approving of the procedure for and terms of the issue, replacement and revocation of travel documents of a refugee; the list of documents and data to be submitted upon application for the issue and replacement of a refugee’s travel document” was adopted on 6 June 2000.

157. In order to guarantee the availability of relevant interpretation services in asylum procedures Estonia, Latvia and Lithuania signed a trilateral cooperation agreement on the exchange of interpreters on 17 March 2000.

158. On 13 April 2000, the Minister of Internal Affairs formed a special Working Group for coordination of activities between the authorities dealing with asylum applicants.

159. In 1999, the Phare horizontal programme on asylum was started focusing on analysis of Estonian legislation as well as the European Union acquis concerning asylum policy. The programme was carried out in cooperation with the European Union.

160. In April 2000, the staff of the Reception Centre participated in special training for social workers organised by the Finnish Ministry of Labour. In March 2000, a workshop focusing on counselling, support and integration of asylum seekers and refugees within the PHARE horizontal programme was organised for the same officials.

161. In May 2000, asylum seekers who had lived in the temporary reception centre at Aa Residential Home were transferred to the specialised Illuka Reception Centre for Asylum Seekers. The first phase of the construction of the Illuka Reception Centre for Asylum Seekers was completed and the Centre was opened on 18 April 2000. The capacity of the first block of the Centre is 39 asylum seekers with a maximum of 42. There are 5 employees, including 1 social worker. The current number of staff is sufficient considering the present status of the Centre. By the end of 2001, the second phase of the construction will be completed and 7 more persons will be employed.

162. By now, four asylum seekers have been granted the status of refugee, for three of them a receiving local government has been found.

163. Officials of the Citizenship and Migration Board have received training on asylum issues at several institutions. Different training programmes have been organised by the Phare Horizontal Programme on Asylum, IOM, UNHCR and the Jaan Tõnisson Institute.

164. In order to improve its administrative capacity, Estonia has published in cooperation with UNHCR booklets in several languages specifying the terms of application for asylum and the rights and duties of asylum applicants.

165. From January 1999 to December 2000, the European Union Phare justice and home affairs horizontal programme on refugees was carried out for 10 Central and East European candidate countries, including Estonia. During the programme, several action plans were drawn up, at the final conference a consolidating plan *Future Report for the Republic of Estonia* was approved. Legislative amendments arising

from this action plan are intended to be realised through the adoption of the Act for the Amendment of the Aliens Act and Refugees Act, which is currently pending before the Parliament.

166. In January 2001, non-profit association Estonian Refugee Assistance was founded that deals with counselling of asylum applicants and refugees.

Restrictions in criminal proceedings

167. Bases for the deprivation of liberty of persons are stipulated in Article 20 of the Constitution, according to which a person may be deprived of his or her liberty only in the cases and pursuant to procedure provided by law:

- 1) to execute a conviction or detention ordered by a court;
- 2) in the case of non-compliance with a direction of the court or to ensure the fulfilment of a duty provided by law;
- 3) to combat a criminal or administrative offence, to bring a person who is reasonably suspected of such an offence before a competent state authority, or to prevent his or her escape;
- 4) to place a minor under disciplinary supervision or to bring him or her before a competent state authority to determine whether to impose such supervision;
- 5) to detain a person suffering from an infectious disease, a person of unsound mind, an alcoholic or a drug addict, if such person is dangerous to himself or herself or to others;
- 6) to prevent illegal settlement in Estonia and to expel a person from Estonia or to extradite a person to a foreign state.

168. According to the Code of Criminal Procedure, no person may be charged with a criminal offence, except on the bases and pursuant to the procedure prescribed by law. Everyone who is deprived of liberty on the basis of this Code will be immediately notified in a language and manner which he or she understands of the reason for the deprivation of his or her liberty, and of his or her rights. A person is given an opportunity to notify, at his or her choice, at least one person close to him or her of his or her detention through a preliminary investigator, prosecutor or the court if such notification does not damage the criminal proceedings. A person suspected of a criminal offence is promptly also given an opportunity to choose a criminal defence counsel for himself or herself and to confer with the counsel.

169. The Code of Criminal Procedure establishes that no one will be held in custody over forty-eight hours without the permission of a court to this effect. The person held in custody shall be immediately notified of the decision of the court in a language and manner which he or she understands. A prosecutor is required to immediately release anyone who has been wrongfully deprived of his or her liberty, or who is held in custody longer than the term prescribed by the law or a court judgment.

170. If there is sufficient reason to believe that an accused or accused at trial who is at large absconds investigation or court proceedings, impedes the establishment of the truth in a criminal matter or continues to commit criminal offences, or in order to ensure the enforcement of a court judgment, one of the following preventive measures may be applied with regard to him or her:

- 1) signed undertaking not to leave place of residence;
- 2) personal surety;
- 3) taking into custody;
- 4) security (bail).

171. Signed undertaking not to leave place of residence means that a suspect, accused or accused at trial signs a written obligation not to leave his or her permanent or temporary residence without the permission of the preliminary investigator, prosecutor or court.

172. Personal surety is a written commitment by a reliable person to ensure the appearance of a suspect, accused or accused at trial when summoned by a preliminary investigator or court.

173. On the application of the suspect, accused or accused at trial, the court may substitute "taking into custody" as a preventive measure with a "security".

174. Detention as a restraint may be used with regard to a suspect, accused or accused at trial in order to prevent them absconding criminal proceedings or committing a new offence, or to ensure the enforcement of a court judgement. Detention during the investigation of a criminal case may not last longer than six months. If the criminal case is particularly complicated or extensive, in exceptional cases the Chief Public Prosecutor or senior county or city prosecutor may request that the term of detention be extended up to one year.

175. In addition to the application of such preventive measures, a minor may be placed under the supervision of his or her parents, guardians, curators, or the administration of an educational, child care or medical institution. With regard to a member of the armed forces, supervision by the command staff of a military unit may also be applied as a preventive measure. Supervision by the command staff of a military unit with regard to a member of the armed forces who is a suspect, accused or accused at trial means the use of prescribed measures in order to guarantee the appropriate behaviour of the person and his or her appearance at the request of the preliminary investigator, prosecutor or court.

176. If the application of a preventive measure is not necessary, a signature will be obtained from the accused or accused at trial concerning his or her obligation to appear for investigation or to the court, and to notify of a change in his or her residence.

177. In the choice of preventive measure, the seriousness of the committed criminal offence, the personality of the suspect, accused, or accused at trial, the possibility that the suspect, accused, or accused at trial may abscond investigation or the court proceedings or may impede the establishment of the truth and the state of health, the age and the marital status and other facts concerning the suspect, accused or accused at trial which may be relevant in the application of a preventive measure will be taken into account.

178. A preventive measure will be applied only with regard to a person against whom charges have been brought. In exceptional cases, a preventive measure may be applied

to a person who is suspected of the commission of a criminal offence prior to the bringing of charges or the prosecution of a suspect pursuant to expedited procedure. In such case, charges will be brought or the suspect will be prosecuted pursuant to expedited procedure not later than within ten twenty-four hour periods as of the application of the preventive measure.

179. Compelled attendance may be applied on the basis of an order of a preliminary investigator or a ruling of a court with regard to a victim, plaintiff, defendant, or the representative of a victim, plaintiff or defendant, or with regard to a suspect, accused, witness, expert, specialist, interpreter, translator or impartial observer of investigative activities, if he or she was required to appear before a preliminary investigator or court, and a warning of a fine was given to him or her, and he or she failed to appear before the preliminary investigator or the court without a reasonable impediment. A person subject to compelled attendance who is staying in the same district as the preliminary investigator or court may be detained for up to eighteen hours prior to the commencement of an investigative activity or a court session. Upon the compelled attendance of a person who stays in another district, the term for detention may not exceed forty-eight hours. Compelled attendance is conducted by the police.

180. In accordance with the Criminal Code, courts may impose imprisonment and detention as a punishment. Imprisonment may be with a term from three months to fifteen years or life imprisonment. By adding up periods of imprisonment, the court may impose as a final punishment a period of imprisonment of up to thirty years. The period of imprisonment imposed on a person who at the time of the commission of an offence was younger than eighteen years may not exceed eight years. The term of detention imposed as a punishment may be up to three months. Detention imposed on a minor may be for a period of up to one month during the time free from studies and work, determining the number of days of detention served during one calendar month.

181. If the court, considering the facts of the commission of an offence and the personality of the offender, finds that serving of the imposed period of imprisonment by the convicted person is not purposeful the court may rule that the imprisonment will conditionally not be applied to the convicted offender. In such case, the court will place the convicted offender under the supervision of a criminal probation supervisor for a probationary period. The period of probation may be from one to three years. The convicted offender under the supervision of the probation supervisor has to observe the following requirements:

- 1) appear periodically for registration at the time and place specified by the probation supervisor;
- 2) present the probation supervisor documents concerning fulfilment of obligations imposed on him or her by the court;
- 3) live in the specified location;
- 4) apply for the permission of the criminal probation supervisor in order to leave the place of residence for longer than 15 days;
- 5) apply for the permission of the criminal probation supervisor in order to change the place of residence, work, or study.

(ii) the right to leave any country, including one's own, and to return to one's country

182. Article 35 of the Constitution establishes that everyone has the right to leave Estonia. This right may be restricted in the cases and pursuant to procedure provided by law to ensure the administration of court or pre-trial procedure, or to execute a court judgment.

183. No Estonian citizen may be expelled from Estonia or prevented from settling in Estonia. No Estonian citizen may be extradited to a foreign state, except under conditions prescribed by an international treaty and pursuant to procedure provided by such treaty and by law. Extradition is decided by the Government of the Republic. Everyone who is under an extradition order has the right to contest the extradition in an Estonian court. Every Estonian has the right to settle in Estonia.

184. The entry of aliens into Estonia, their stay, residence and employment in Estonia and the bases for legal liability of aliens are regulated by the Aliens Act. A legal basis must exist for an alien to enter Estonia or stay in Estonia. An alien has to hold a work permit to work in Estonia. A residence permit is not issued to or extended for an alien who has incited or incites, or there is good reason to believe that he or she has incited or incites national, racial, religious or political hatred or violence.

185. The legal bases for an alien to stay in Estonia are:

- 1) a residence permit;
- 2) a visa, for the period of time indicated for the stay in Estonia;
- 3) the right to stay in Estonia arising from an international agreement;
- 4) the right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;
- 5) other permission arising from law, or permission granted by administrative legislation on the basis of law for the alien to stay in Estonia;

186. The Aliens Act establishes the annual immigration quota, i.e. the limit for aliens immigrating to Estonia that may not exceed 0.05 per cent of the permanent population of Estonia annually. The immigration quota is established by the Government of the Republic taking into account the proposals of local governments. Within the limits of the immigration quota, the Minister of Internal Affairs may, by a ruling, establish a distribution of the immigration quota according to the grounds for application for the residence permit and the basis for issuing the residence permit, and the annual schedule. Persons who have the right to settle in Estonia outside of the immigration quota or to whom the immigration quota does not apply are not included in calculating the fulfilment of the immigration quota.

Every Estonian has the right to settle in Estonia outside of the immigration quota.

187. The immigration quota does not include the following:

- 1) the immigration quota does not apply to citizens of the European Union, the United States of America, Norway, Iceland, Switzerland and Japan.
- 2) The Minister of Internal Affairs may, on a reasoned proposal of the Minister of Economic Affairs, Minister of Finance, Minister of Culture or Minister of Education, exempt specific persons from the immigration quota if their arrival in Estonia is necessary in the national interests for economic, educational, scientific or cultural development.

188. As compared to the previous Report, there have been certain developments both in legislation and administrative practice. In April 2000, the Aliens Act was amended and the scope of persons exempted from the immigration quota was extended. According to the amendments, the immigration quota does not apply to:

- 1) a spouse of an Estonian citizen who applies for a residence permit if the spouses have a common child under 15 years of age or if the woman's pregnancy has lasted for more than 12 weeks.
- 2) an under 15-year-old child of an Estonian citizen for whom a residence permit is applied.

189. In certain cases, domestic courts have interpreted the imposition of the immigration quota as unconstitutional. For example, the Supreme Court decision of 12 June 2000 (No. 3-3-1-15-00) in Svetlana Kopylova's cassation concerning application of the immigration quota and the Supreme Court decision of 18 May 2000 (No. 3-3-1-11-00) concerning Valentina Ushakova's administrative matter. The Citizenship and Migration Board refused to grant a residence permit to Valentina Ushakova and her minor son due to the fulfilment of the immigration quota. The Supreme Court was of the opinion that an alien's right to live in Estonia does not merely derive from the Aliens Act but also from the Constitution and the European Convention on Human Rights. If an alien has a family life in Estonia in the meaning of the Estonian Constitution and the Convention then his or her right to reside legally in Estonia may also derive from the Constitution and the Convention, not only the Aliens Act.

190. Article 27 of the Constitution proves that the family has an independent value in the meaning of the Constitution. Article 27 of the Constitution has been worded as a right without the reservation of law, i.e. as an absolute right. It does not ensue from this that it is a fundamental right that cannot be restricted at all. However, in order to restrict a right that is not subject to the reservation of law, there has to be a very important reason that has to contain in the Constitution itself, for example with the aim established in the preamble to the Constitution that the Estonian state protects internal and external peace.

191. Refusal to grant a residence permit to an alien who leads family life in the meaning of the Constitution in Estonia cannot be justified merely with the fulfilment of the immigration quota. This would not be in conformity with the nature of the fundamental right. As Ushakova's husband is an Estonian citizen, refusal to grant the residence permit to Ushakova may place her husband who is an Estonian citizen in a situation where he is forced to leave Estonia in order to live a family life. An Estonian citizen has a subjective right to reside in Estonia, Article 36 of the Constitution says that no Estonian citizen may be expelled from Estonia or prevented from settling in Estonia. There has to be a compelling reason for refusal to grant a residence permit to a spouse of an Estonian citizen. The Supreme Court in its decision found that the fulfilment of the immigration quota is not a compelling reason for refusal and satisfied Ushakova's cassation.

192. The Obligation to Leave and Prohibition on Entry Act provides the bases and procedure for the application to aliens of the obligation to leave Estonia and the prohibition on entry into Estonia.

A legal basis must exist for an alien to stay in Estonia. The Citizenship and Migration Board issues a precept to leave Estonia pursuant to the procedure established by law to an alien who has no legal basis to stay in Estonia. An alien is expelled from Estonia upon the arrival of the term for the enforcement of the precept to leave.

Expulsion will not be applied if:

- 1) the precept has been annulled or declared void or has lost validity;
- 2) the expulsion has become impossible;
- 3) the expulsion may result in the torture, inhuman or degrading punishment or treatment, or death or persecution of the alien for racial, religious, social or political reasons.

193. A person to be expelled will be expelled to the state from which he or she arrived in Estonia, to the country of his or her nationality or to his or her country of habitual residence, or to a third state with the consent of the third state. If there is more than one option, the reasoned preference of the person to be expelled will be the primary consideration, if such preference does not significantly impede enforcement of the expulsion. An alien may not be expelled to a state to which expulsion may result in his or her torture, inhuman or degrading punishment or treatment, or death or persecution for racial, religious, social or political reasons.

194. A prohibition on entry may be applied with regard to an alien if:

- 1) there is good reason to believe that his or her stay in Estonia may endanger the security of the Republic of Estonia, or public order, public safety, moral standards or the health of other persons;
- 2) there is information or good reason to believe that he or she belongs to a criminal organisation, that he or she is connected with the illegal conveyance of narcotics, psychotropic substances or persons across the border, that he or she is a member of a terrorist organisation or has committed an act of terrorism, or that he or she is involved in money laundering;
- 3) he or she is or has been employed by an intelligence or security service of a foreign state, or there is good reason to believe that he or she is or has been employed by an intelligence or security service of a foreign state;
- 4) he or she has received or there is good reason to believe that he or she has received special training in landing operations or in diversion or sabotage activities, or other special training if the knowledge and skills acquired in the process of such training can be directly applied in the formation or training of illegal armed units;
- 5) he or she incites or there is good reason to believe that he or she incites racial, religious or political hatred in Estonia or a foreign state;
- 6) he or she has been punished or there is good reason to believe that he or she has been punished for a serious crime against humanity or for a war crime, regardless of whether the criminal record has expired or been expunged, and regardless of the expungement of data concerning punishment from the punishment register;
- 7) he or she has been punished for an intentionally committed criminal offence or for another offence in Estonia or a foreign state, and if the criminal record has neither expired nor been expunged or if data concerning the punishment have not been expunged from the punishment register;
- 8) the alien has violated legislation regulating the stay of aliens in Estonia or the crossing of the state border by aliens.

195. Upon application of a prohibition on entry with regard to an alien who holds a residence permit, a visa or other permission to stay in Estonia granted by administrative legislation, the corresponding basis for stay will be annulled.

A prohibition on entry does not deprive an alien of the right to apply for asylum in Estonia.

196. Prohibition on entry will not be applied:

- 1) with regard to an alien less than 13 years of age;
- 2) with regard to an alien who is of Estonian origin;
- 3) with regard to an alien whose application for asylum in Estonia has been accepted for hearing or with regard to an alien who has been granted asylum in Estonia.

197. A precept with the obligation to apply for a residence permit pursuant to the procedure provided by law in order to legalise his or her stay in Estonia is made to an alien who is staying in Estonia without legal basis and who:

- 1) leads a family life that is protected by law in Estonia;
- 2) is of Estonian origin;
- 3) has settled in Estonia before 1 July 1990 and has thereafter not left to reside in another country and whose continued stay in Estonia does not damage the interests of the Estonian state

(iii) The right to nationality

198. Article 2 of the Citizenship Act establishes acquisition, resumption and loss of Estonian citizenship. Estonian citizenship is:

- 1) acquired by birth;
- 2) acquired by naturalisation;
- 3) resumed by a person who lost Estonian citizenship as a minor;
- 4) lost through release from or deprivation of Estonian citizenship or upon acceptance of the citizenship of another state.

199. An alien who wishes to acquire Estonian citizenship shall:

- 1) be at least 15 years of age;
- 2) have stayed in Estonia on the basis of a permanent residence permit for at least five years prior to the date on which he or she submits an application for Estonian citizenship and for one year from the day following the date of registration of the application;
- 3) have knowledge of the Estonian language in accordance with the requirements established by the law;
- 4) have knowledge of the Constitution of the Republic of Estonia and the Citizenship Act in accordance with the requirements established by the law;
- 5) have a permanent legal income which ensures his or her own subsistence and that of his or her dependants;
- 6) be loyal to the Estonian state;
- 7) take an oath: "Taotledes Eesti kodakondsust, tõotan olla ustav Eesti põhiseaduslikule korrale. " [In applying for Estonian citizenship, I swear to be loyal to the constitutional order of Estonia.]

200. Important amendments in the Citizenship Act were made in 1998, which considerably simplified the procedures for acquiring Estonian citizenship for minors.

201. Since March 1998, the Riigikogu has amended the Citizenship Act on two occasions:

8 December 1998 Act for the Amendment of Articles 13, 15, 18, 19, 21, 23, 28, 29 and 32 and Revision of Article 14¹ of the Citizenship Act. As a result of the amendment of the Act, subsections 4-6 were added to Article 13 of the Citizenship Act, which will enable a minor under 15 years of age who was born in Estonia after 26 February 1992 to acquire Estonian citizenship by naturalisation if:

- 1) his or her parents apply for Estonian citizenship for him or her and if the parents have legally resided in Estonia for at least five years at the time of submission of the application and are not deemed by any other state to be citizens of that state on the basis of any Act in force;
- 2) single or adoptive parent applies for Estonian citizenship for the minor and if the single or adoptive parent has legally resided in Estonia for at least five years at the time of submission of the application and is not deemed by any other state to be a citizen of that state on the basis of any Act in force.
- 3) A minor under 15 years of age for whom Estonian citizenship is applied for in accordance with subsection (4) of this section shall be staying in Estonia permanently and not have been deemed by any other state to be a citizen of that state on the basis of any Act in force.
- 4) The specification provided for in subsection (4) of Article 13 of the Citizenship Act concerning persons who are not deemed by any other state to be citizens of that state on the basis of any Act in force also includes persons who, before 20 August 1991, were citizens of the Union of Soviet Socialist Republics and who have not been deemed by any other state to be citizens of that state on the basis of any Act in force.

202. For the implementation of the above subsections, Articles 14¹ and 15 were added to the Citizenship Act, which establish the specification of a single parent raising a child who is a minor and the list of documents required for applying for citizenship for a minor. The conditions for the deprivation (Article 28) and loss (Article 29) of Estonian citizenship were also specified.

203. On 14 June 2000, the Citizenship Act was amended and special conditions for the acquisition of Estonian citizenship regarding persons with disabilities were introduced.

204. The need for the above amendments arises from the adoption of the new Social Benefits for the Persons with Disabilities Act in January 1999. This Act replaced the categories of disability that were previously used to measure the degree of disability with new degrees of disability on the basis of need for care (profound, severe, moderate disability), which created a need for amending Article 34 of the Citizenship Act where the term "category of disability" had been used so far.

205. According to the amended Act, the provisions of the Citizenship Act that require passing of an examination to testify the knowledge of the Estonian language and of the Constitution and of the Citizenship Act as a condition for naturalisation will not be applied with respect to persons with profound or severe disability. The same

exception applies with respect to applicants with moderate disability whose nature of disability (hearing and/or visual impairment) makes them unable to comply with the requirement of examinations.

206. If people do not apply for Estonian citizenship or have not yet chosen which citizenship they wish to hold, they are still given a clear legal status in Estonia. The Estonian Constitution and legal acts, such as the Aliens Act, provide the legal status necessary for the preservation of their human rights.

207. On 24 September 1997, the parliament adopted an amendment to the Aliens Act. According to the amendment, people who applied for temporary residence permits before 12 July 1995 are eligible for permanent residence permits from 12 July 1998. From July 1998, the procedure for applying for residence permits has become simpler than it was in 1993-1995. The applicant now does not have to be present when the application is being handled, and information material in Russian has been prepared to assist the applicants.

208. According to the amendments to the July 1997 Aliens Act that came into force on 12 July 1998, permanent residence permits may be issued to aliens who have resided in Estonia on the basis of a temporary residence permit for at least three years within the last five years and who have a residence and employment or other legal income.

209. Pursuant to Article 9 of the Aliens Act, an alien must have a legal basis must to enter Estonia or stay in Estonia. An alien has to hold a work permit to work in Estonia. The legal bases for an alien to stay in Estonia are:

- 1) a residence permit;
- 2) a visa, for the period of time indicated for the stay in Estonia;
- 3) the right to stay in Estonia arising from an international agreement;
- 4) the right to stay in Estonia arising from a resolution of the Government of the Republic to forego the visa requirement;
- 5) other permission arising from law, or permission granted by administrative legislation on the basis of law for the alien to stay in Estonia;

210. An alien who during the period of validity of his or her residence permit applies for an extension of the residence permit or for a permanent residence permit pursuant to the procedure established by the Government of the Republic is deemed to be staying in Estonia legally until a decision concerning his or her application is made.

211. A permanent residence permit may be issued to an alien who has resided in Estonia on the basis of a temporary residence permit for at least three years within the last five years and who has a valid residence permit, a residence in Estonia and legal income for subsistence in Estonia, unless otherwise provided by the Act.

A permanent residence permit is also granted to a minor child of an Estonian citizen resident in Estonia or of an alien resident in Estonia on the basis of a permanent residence permit, except in the case if he or she resides in a foreign country and wishes to move to Estonia. (Aliens Act Article 12)

212. Pursuant to the Government of the Republic regulation no. 219 of 30 June 2000 "Conditions for combining and review of Estonian language examinations of applicants for citizenship and the Estonian language proficiency examinations", the assessment of the knowledge of Estonian required in Article 8 of the Citizenship Act is not performed any more by the Citizenship and Migration Board but by the National Examination and Qualification Centre. Pursuant to the Government of the Republic regulation no. 218 of 30 June 2000 "The procedure for examinations to test the knowledge of the Estonian Constitution and of the Citizenship Act", the examinations to test the knowledge of the Constitution and the Citizenship Act as required by Article 9 of the Citizenship Act are conducted by the committees formed with regional departments of the Citizenship and Migration Board.

213. The Citizenship Act includes a language requirement at a minimum conversational level. From 1993, the language requirements have been reviewed many times. Information regarding the language requirements is freely delivered by the National Examination and Qualification Centre, where everyone who wishes can take a preliminary test and have a free-of-charge consultation. A free handbook is also available to teachers, applicants and examiners.

214. The language proficiency examination tests listening comprehension, reading comprehension, writing and speaking skills. Each part is successfully completed if 60% of the answers are correct. The language tests are scored on a basis of overall mutual compensation: for example, poor verbal abilities can be compensated by good performance in written exercises.

215. In 2000, the number of persons taking the language test grew significantly – total eleven thousand people passed the test successfully. An important factor in achieving this result was the implementation of the language training project "InterEst". The reimbursement programme implemented in cooperation of the Phare programme and the Integration Foundation provided for 50% coverage of language course expenses for people who successfully pass the examination. In the framework of the programme, certain categories of people were eligible for full coverage of course fees; for example, language training programmes for unemployed people, pensioners and disabled people, but also the expenses of relatively low-income civil servants in the public sector or in local governments (social workers, prison officials, etc.).

216. Applicants born before 1 January 1930 are exempted from the writing skills section, special exemptions are also provided for candidates with disabilities (see also the subsection on citizenship).

Applicants who have acquired elementary, secondary or higher education in Estonian are exempt from the language exam.

The passage rate of the language proficiency test has been constantly over 80 percent.

217. For pupils of schools where the language of instruction is not Estonian, the examination is free due to the combining of the final examination/state examination and the language proficiency examination.

State programmes

218. One of the state institutions participating in the national integration programme is the Ministry of Internal Affairs, cooperating and being a partner in projects with non-profit and other organisations. As an agency under the Ministry of Internal Affairs, the Citizenship and Migration Board (CMB) plays an important role in integrating non-Estonians into Estonian society because the CMB is the main state institution through which the non-Estonian speaking population arranges its relations with the Republic of Estonia. This enables the CMB to identify and analyse problems that are related to non-Estonian clients and their integration into Estonian society. Bearing this in mind, the CMB has an important role not only in promoting its own image but also shaping the general attitudes and opinion of non-Estonians towards the Estonian state.

219. The CMB has close cooperation with the International Organisation for Migration (IOM). On the initiative of the CMB, in July 1998 an agreement was signed with the IOM to open an integration bureau in the CMB Narva office. The aim of the project, in accordance with the national integration policy, is to support integration of non-citizens in Ida-Viru county into Estonian society, giving them prompt and accurate information about the integration conditions. Therefore, it was considered necessary to employ integration officials in regional departments of the CMB. As Ida-Viry county has the largest number of non-citizens, Narva office of the CMB was chosen to carry out the pilot phase of the project.

220. The integration official working in the CMB bureau is competent to answer questions of non-Estonians, to provide them counselling, to solve their more complicated problems. The daily work of the integration official is to register queries made by clients. Systematisation and analysis of that information is a basis for making proposals to improve the work of the CMB and to prepare information materials.

221. The objectives of the project:

- The service of the CMB will become more client-friendly. At the same time, the attitude of clients, in particular non-Estonians, towards the CMB and the Estonian state will improve.
- Several barriers among non-Estonians, such as lack of information, fear of the citizenship examination, negative attitude, etc, will decrease and the number of non-citizens will decline.
- The interest and motivation of Russian youth to become Estonian citizens will increase as well as their confidence in the Estonian state will strengthen.
- It will be possible to compare the integration programmes and related activities in Estonia and Nordic countries. Likewise, it will be possible to compare the functions, training and organisation of work of officials.

222. Integration may be seen as a process creating a link between the individual and the state and society because there are more than 350 000 non-Estonians in Estonia who actively communicate with the CMB. The CMB has regional units in all the counties. The Ministry of Internal Affairs plans to employ integration officials in all the structural units of the CMB in whose service areas non-Estonians make up more than 10%.

223. In September 1999, an integration official was employed in Narva and Jõhvi bureau of the Citizenship and Migration Board. The integration official works as an assistant client service staff who gives non-Estonians information on the topics of citizenship, application of residence permits, visas, language training, integration, etc.

224. The aim of the Narva and Jõhvi bureau is to create a local communication network to help provide answers to every question. The official will be reliable, willing to help and have a computer connection with many specialists, organisations and institutions to be able to find solutions to problems.

225. The main fields of work of the integration official are:

- to develop cooperation and contacts with state institutions, local governments and educational institutions;
- to organise cooperation with non-profit organisations and local businesses;
- to participate in integration programmes;
- to inform the CMB about the problems and make proposals for solving them, to make proposals for the work of the CMB and for preparing legislation;
- to counsel people about the possibilities of applying for Estonian citizenship and possibilities for language training, the conditions of applying for permanent residence permit, entering and leaving Estonia, the conditions for visas and visa invitations and possible changes in legislation regulating these areas;
- to inform people about other developments in the areas connected with integration (e.g. elections);
- to inform people about the possibilities of learning Estonian and possibilities for vocational and higher education;
- to inform Estonians who have returned to Estonia and their family members about the issues relating to their legal status.

226. In order to analyse various problems, the CMB has created a register into which the integration official enters problems that clients have addressed to the CMB and that require more complicated analysis. By obtaining a good overview of the more complicated issues and at the same time analysing them at the integration and migration department of the CMB, it is possible to identify conflicting provisions in Estonian legislation that may hinder people's integration into Estonian society.

227. Every year on 26 November, Citizen's Day is celebrated in Estonia. The Citizen's Day is oriented towards all Estonian citizens and applicants for citizenship regardless of their ethnic origin. The Citizen's Day is a nationwide event and is first and foremost based on local initiative and to a large extent it is an information day. During the Citizen's Day, schools can ask politicians and people active in public life (members of the Riigikogu, etc) to come and speak on the topical issues.

(iv) the right to marriage and choice of spouse

228. Pursuant to Article 27 of the Constitution, the family, being fundamental to the preservation and growth of the nation and as the basis of society is protected by the state. Spouses have equal rights.

229. In accordance with the Family Act, a marriage is contracted between a man and a woman. A marriage has legal effect only if the marriage is registered at a vital statistics office upon contraction of the marriage. Prospective spouses contract marriage with both being present in person at the same time. A marriage is contracted when the marriage registration is signed by the prospective spouses.

230. A marriage is contracted on the mutual desire of the prospective spouses. A marriage may not be contracted:

- 1) between persons of whom at least one is already married;
- 2) between direct ascendants and descendants, brothers and sisters, half-brothers and half-sisters, adoptive parents and adopted children, or between children adopted by the same person;
- 3) between persons of whom at least one is declared to be without active legal capacity.

231. Upon contraction of marriage, spouses will choose the surname of one spouse as the common surname, both spouses retain their pre-marital surnames or, at the request of a spouse, the surname of the other spouse is added to the spouse's pre-marital surname.

232. Agreements that restrict the personal rights and freedoms of spouses are void.

233. The new Draft Family Act has been prepared that has a separate chapter on hindrances to contraction of marriage instead of one section contained in the present Act. It is prohibited to have multiple marriage, marriage between relatives, marriage in the case of an adoption relationship and marriage between a step-parent and stepchild.

Table 4. Marriages and divorces 1997 - 2000

Year	Marriages	Divorces
1997	5589	5281
1998	5430	4491
1999	5590	4561
2000	5485	4230

Source: Statistical Office of Estonia

234. The Committee on the Elimination of Racial Discrimination has asked in its concluding observations (CERD/C/304/Add.98) information on Estonian birth rates, including separate data on the majority population and on ethnic minorities.

Table 5. Live birth by ethnic nationality of parents 1997-2000

Mother's ethnic nationality	1997	1998	1999	2000
<i>Mother and father of the same ethnic nationality</i>				
Estonian	8450	8051	7629	7713

Russian	1919	1953	1914	1979
Ukrainian	44	44	37	38
Byelorussian	6	9	7	9
Finn	-	5	8	4
Jew	1	1	1	2
Tatar	3	2	1	1
German	-	3	2	5
Latvian	-	-	-	-
Pole	-	2	1	-
Others	30	21	25	25
Total	10453	10091	9625	9776

Mother's ethnic nationality	1997	1998	1999	2000
<i>Mother and father of different ethnic nationality</i>				
Estonian	522	507	464	443
Russian	771	788	732	682
Ukrainian	187	165	160	171
Byelorussian	109	86	78	85
Finn	64	59	53	54
Jew	6	11	6	10
Tatar	14	9	16	11
German	17	21	17	21
Latvian	21	15	15	17
Pole	19	18	9	12
Others	92	67	65	68
Total	1822	1746	1615	1574

Mother's ethnic nationality	1997	1998	1999	2000
<i>Ethnic nationality unknown</i>				
Father's ethnic nationality unknown	319	385	1285	1734
Mother's ethnic nationality unknown	11	7	15	5
Mother's and father's ethnic nationality unknown	21	40	5	-
Total	351	432	1305	1739

Source: Statistical Office of Estonia

(v) the right to own property alone as well as in association with others

235. Pursuant to Article 32 of the Constitution, the property of every person is inviolable and equally protected. Property may be expropriated without the consent of the owner only in the public interest, in the cases and pursuant to procedure provided by law, and for fair and immediate compensation. Everyone whose property is expropriated without his or her consent has the right of recourse to the courts and to contest the expropriation, the compensation, or the amount thereof. Everyone has the right to freely possess, use, and dispose of his or her property. Restrictions are provided by law. Property may not be used contrary to the public interest. The right of succession is guaranteed.

236. The law may provide classes of property which, in the public interest, may be acquired in Estonia only by Estonian citizens, some categories of legal persons, local governments, or the Estonian state.

237. Pursuant to the Law of Property Act, an owner may be a natural person or a legal person in private law (persons in private law), or the state, a local government or a legal person in public law (persons in public law).

238. All owners have equal rights unless otherwise provided by law. The property of a legal person or a legal person itself cannot belong to other persons. The acquisition of property by legal persons, foreign states, their citizens, international organisations and stateless persons may be restricted by law in the public interest.

239. Act for the Restriction of Transfer of Immovable Property Ownership to a Foreigner, Foreign State and Legal Person establishes the following restrictions on the transfer of the ownership of a plot of land to a foreigner:

- 1) ownership of a plot of land may be transferred to a foreigner with the permission of the county governor of the county where the plot is located;
- 2) immovable property ownership or possession of an immovable may be transferred to a foreigner with the permission of the Minister of Foreign Affairs;
- 3) ownership of a plot of land may be transferred to a foreign legal person with the permission of the county governor of the county where the immovable is located.

240. Acquisition of a plot of land by a foreigner is prohibited on certain islands and in certain local government units. For reasons of national importance, the Government of the Republic may grant as an exception the right to acquire a plot of land in the above areas.

241. The permission is not needed for transfer of ownership of a plot of land to transferor's spouse, direct descendants and ascendants. The following will also be exempt from the above restrictions:

- 1) transfer of apartment ownership and ownership and possession of apartment building lease;
- 2) transfer of immovable property ownership or possession of an immovable of the state or local government unit;
- 3) succession;
- 4) transfer of an immovable to joint ownership of the spouses if at least one of the spouses is Estonian citizen;
- 5) if otherwise provided in international agreements ratified by the Riigikogu.

242. Certain restrictions on the acquisition of an immovable are also provided in other laws, for example the Water Act, the Forest Act, the Protected Natural Objects Act.

243. Pursuant to the Weapons Act, the following may freely acquire, own or possess weapons and ammunition in unrestricted commerce:

- 1) Estonian citizen who is at least 16 years of age;
- 2) A foreign citizen or a stateless person who is staying legally in Estonia (hereinafter "alien") and who is at least 16 years of age;
- 3) Legal person registered in Estonia;
- 4) State or local government agency (hereinafter "agency")

244. An alien who is at least 18 years of age who is staying in Estonia on the basis of a permanent residence permit may acquire and own weapons in restricted commerce pursuant to the procedure and conditions provided by law, except pistol classified as firearm, revolver and firearm with a rifled barrel.

245. An alien who is legally staying in Estonia and who does not have a permanent residence permit and who is at least 18 years of age may acquire a weapon in restricted commerce for the purposes of taking the weapon out of Estonia, pursuant to the conditions and procedure provided by this Act:

- 1) if he or she holds a permit issued by a competent authority of the state of his or her permanent residence for the acquisition of such type of weapon, and;
- 2) if his or her application for acquisition permit for weapon is submitted by the relevant country's diplomatic or consular representation via the Estonian Ministry of Foreign Affairs, and;
- 3) if he or she obliges to take the weapon out of Estonia on his or her departure.

246. Since April 2000, the Young Family's Dwelling Loan Project was started in Estonia in order to support young families in setting up their homes. According to the project, bank loans on favourable conditions are granted to young families with at least one child under 7 years old. In order to facilitate the repayment of the loan, interest on the loan is subsidised.

247. Different schemes of micro-loans have been implemented as pilot studies in the framework of projects under rural life development programmes.

248. According to the Government of the Republic regulation no. 132 ("Approving the procedure for granting and repayment of student loans and establishing the preferences for the redemption of loans") the progression of the term of repayment of a student loan and calculation of interest on it is suspended for the time of the recipient serving in the defence forces and for mothers for the time of parental leave for one year after the birth of a child.

(vi) the right to inherit

249. Pursuant to Article 32 of the Constitution, the right of succession is guaranteed. The right of succession is regulated in more detail in the Succession Act.

250. Any person with passive legal capacity has succession capacity.

The basis for succession is:

- 1) law;
- 2) the testamentary intention of the bequeather expressed in a will;
- 3) the testamentary intention of the bequeather expressed in a testamentary contract.

251. Pursuant to the Act, a person is unworthy to succeed if the person:

- 1) commits a criminal offence against the person of the bequeather or provisional successor resulting in their death except if committed in self-defence or in excess of the limits of self-defence;
- 2) knowingly and unlawfully places the bequeather in a situation where he or she is incapable of making or altering a testamentary disposition until his or her death;
- 3) by duress or deceit hinders the bequeather from making or altering a testamentary disposition or in the same manner induces the bequeather to make or alter a testamentary disposition if it is no longer possible for the bequeather to express his or her actual testamentary intention;
- 4) knowingly and unlawfully removes or destroys a will or testamentary contract if it is no longer possible for the bequeather to renew it.

(vii) the right to freedom of thought, conscience and religion

252. The Constitution guarantees everyone the 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 (Article 40).

253. Everyone has the right to remain faithful to his or her opinions and beliefs. No one shall be compelled to change them (Article 41).

254. The Churches and Congregations Act provides the procedure for joining churches and congregations and the regulation of their activities. Pursuant to the Act, everyone is free to choose, confess and proclaim his or her religious beliefs. No one is required to give information about his or her confession or belonging to a church. It is prohibited to restrict a person's rights and interests due to his or her religious beliefs and such restriction is punishable as a criminal offence.

255. A conscript who has refused to serve in the armed forces due to religious or moral reasons is obliged to undergo an alternative service pursuant to the procedure provided by the Defence Forces Service Act.

256. Medical, educational, welfare and penal institutions are required to enable people in their institutions to exercise their religion in accordance with their confession if they so wish and if it is not detrimental to the order established in these institutions and to the interests of other people in the institution.

257. Conscripts serving in the armed forces are guaranteed the possibility to exercise their religion by command staff of a military unit.

258. Services and religious ceremonies in medical, educational, welfare and penal institutions and in military units are organised by a church or congregation with the permission of the local government or relevant authority.

259. Every person who is at least 15 years of age may independently join or leave a congregation in accordance with the procedure prescribed in the statutes. A child who is younger than 12 years may only belong to the congregation of his or her parents on the wish of the parents, or with the parents' agreement to a congregation of one of the parents in accordance with the statutes of the congregation.

260. All members of a church or congregation are equal before the law. Every adult member of a church or congregation has the right to inquire about and obtain information about the issues concerning the activities of his or her church, congregation or association of congregations. Persons who have active legal capacity and are 18 years of age have the right to participate in the elections of the board and officials of the church or congregation, unless the statutes prescribe a higher age limit. Every person has the right to leave a church or congregation informing the board of the church or congregation of his or her decision.

261. A congregation with at least 12 adult members who have active legal capacity may apply for registration. Statutes of churches, congregations and associations of congregations and amendments and revisions thereto are registered by the Ministry of Internal Affairs who maintains the register of churches, congregations and associations of congregations.

262. A church, congregation and association of congregations has the right to be a founding member or member of national and international church, religious, charity or educational organisations.

263. The following national congregations have been registered with the Department of Religious Affairs of the Ministry of Internal Affairs:

1. Ukrainians:

Tallinn Congregation of the Ukrainian Greek-Catholic Church;

2. Armenians:

Estonian Congregation of St Gregory of the Armenian Apostolic Church;

3. Jews:

- 1.1 Estonian Jewish Congregation,
- 1.2 Jewish Progressive Congregation in Tallinn,
- 1.3 Jewish Progressive Congregation "Hineiny" in Narva;

2. Swedes:

Tallinn Swedish-Michael Congregation of Estonian Evangelic Lutheran Church;

3. Ingrian-Finns:

- 3.1 Ingrian-Finns Congregation of Estonian Evangelic Lutheran Church in Tallinn,
- 3.2 Finnish Congregation of Estonian Evangelic Lutheran Church in Tartu;

4. Germans:
German Congregation "The Redeemer" of Estonian Evangelic Lutheran Church in Nõmme;

7. Russians:
 - 7.1 Old-believers' Congregations (11),
 - 7.2 Tallinn Congregation of Russian Evangelical Christians and Baptists,
 - 7.3 Sillamäe Congregation of Evangelical Christians and Baptists,
 - 7.4 Narva Congregation of Estonian Methodist Church,
 - 7.5 Fellowship of New Covenant in Tallinn,
 - 7.6 Full Gospel Congregation in Tallinn,
 - 7.7 Pentecostal Congregation "Immanuel" in Tallinn,
 - 7.8 Russian Pentecostal Congregation in Pärnu,
 - 7.9 Christians-Pentecostal Congregation in Kohtla-Järve,
 - 7.10 Pentecostal Congregation "The Reviver" in Tallinn,
 - 7.11 Full Gospel Free Congregation "Gift of Grace" in Jõhvi,
 - 7.12 Russian Congregation of Estonian Christian Pentecostal Church in Lasnamäe,
 - 7.13 Russian Congregation of Estonian Christian Pentecostal Church in Sillamäe,
 - 7.14 Russian Congregation of Estonian Christian Pentecostal Church in Pärnu,
 - 7.15 Russian Congregation of Evangelical Christians and Baptists in Kohtla-Järve;

8. Poles:
There is a Polish national group within the Congregation of St. Peter and Paul of Roman Catholic Church in Tallinn who are served in Polish.

9. Lithuanians:
There is a Lithuanian national group within the Congregation of St. Peter and Paul of Roman Catholic Church in Tallinn who are served in Lithuanian.

10. Mixed Congregations:
 - 10.1 The majority of the 58 Congregations of Estonian Apostolic Orthodox Church are mixed Estonian-Russian congregations,
 - 10.2 Congregations of Roman Catholic Church in Valga, Ahtme, Narva and Sillamäe are Estonian-Russian mixed congregations,
 - 10.3 Estonian Islam Congregation and Estonian Moslem Sunnite Congregation, embracing the Tartars, Azerbaijanis, Kazakhs, Uzbeks, Chechens, Lesgins,
 - 10.4 Bahá'í Community in Tallinn includes Estonians, Persians, Russians,
 - 10.5 Christian Congregation of New Testament in Tallinn embraces Estonians and Russians.

11. Under the Canonical Subordination of Moscow Patriarchy (predominantly Russian-speaking associations):
 - 11.1 The Pühtitsa Dormition Stavropegic Convent,
 - 11.2 Aleksander Nevski Stavropegic Congregation in Tallinn.

(viii) the right to freedom of opinion and expression

264. Pursuant to Article 45 of the Constitution, everyone has the right to freely disseminate ideas, opinions, beliefs and other information by word, print, picture and other means. This right may be restricted by law in order to protect public order or morals, or the rights and freedoms, health, honour and good name of others. This right may also be restricted by law for state and local government civil servants, to protect a state or business secret or information received in confidence that has become known to them by reason of their office, and the family and private life of others, as well as in the interests of justice. There is no censorship.

265. Article 44 of the Constitution stipulates that everyone has the right to freely obtain information disseminated for public use. At the request of an Estonian citizen, and to the extent and in accordance with procedures established by law, all state agencies and local governments, and their officials are obliged to provide information about their activities, with the exception of information the disclosure of which is prohibited by law, and information which is intended for internal use only.

266. Every Estonian citizen has the right to access information about himself or herself held in state agencies and local governments and in state and local government archives, pursuant to procedure established by law. This right may be restricted pursuant to law to protect the rights and freedoms of others or the confidentiality of a child's parentage, and in the interests of preventing a criminal offence, apprehending a criminal offender, or ascertaining the truth in a criminal proceeding (Article 4 of the Constitution).

267. The Constitution allows for restrictions to freedom of expression only on the basis of the law. The Criminal Code provides such restrictions for the protection of national defence, or the rights, reputation, health or morals of others. The restrictions imposed by the Criminal Code can be considered as necessary in a democratic society and non-discriminatory. For example, the Criminal Code establishes that the incitement of national, racial, religious or political hatred, violence or discrimination shall be punished by a fine or detention or deprivation of liberty for up to one year (Article 72¹).

268. Estonian legislation does not regulate the press or publishing, there is no law on the press as such in Estonia; cases regarding libel are covered by civil and criminal codes. There is no censorship. Everyone may freely publish newspapers, periodicals or books, whereby the Criminal Code prohibits the printing of certain publications, such as those containing war propaganda or inciting racial or religious hatred.

269. Restrictions to the freedom of expression in relation to the prohibition of incitement of discrimination can also be found in the Advertising Act that entered into force on 1 January 1998 and establishes the prohibition of offensive advertising (in Article 5):

- an advertisement is offensive if it is contrary to good morals and customs, calls on people to act unlawfully or to violate prevailing standards of decency, or if it contains such activities. Offensive advertising is prohibited.
- an advertisement is considered offensive in particular if the advertisement:

presents, incites or endorses discrimination on the grounds of nationality, race, colour, sex, age, language, origin, religion, political or other opinion, and financial or social status or other circumstances.

270. The activities of electronic media in the Republic of Estonia are regulated by the Broadcasting Act that entered into force on 15 June 1994. Pursuant to Article 1 of the Act, one of its objectives is to regulate the procedure for broadcasting information and the principles of broadcasting activities. According to the Act, everybody can obtain the permission to broadcast.

271. The principles of broadcasting activities are provided in Chapter II. A broadcaster has the right, in compliance with law and the conditions of a broadcasting licence, to freely decide on the content of its programmes and programme services (Article 6). Thus, it is prohibited for the broadcasters to transmit programmes the content of which is in conflict with the principles of the Constitution or laws prohibiting discrimination or incitement of discrimination. This prohibition is established by Article 9, which is to guarantee the standards of decency and the legality as follows: "Broadcasters shall not transmit programmes the content of which is immoral or in conflict with the Constitution or laws".

272. Pursuant to Article 13, the broadcasters shall appoint executive producers or equivalent persons for programmes and programme services who will be responsible for ensuring, *inter alia*, that respective programmes or programme services meet the requirements of law and observe the principle of freedom of expression.

273. For the purposes of the Broadcasting Act, *Eesti Raadio* (Estonian Radio) and *Eesti Televisioon* (Estonian Television) are broadcasting organisations in public law. Article 25, which establishes the functions of *Eesti Raadio* and *Eesti Televisioon*, states, *inter alia*, the responsibility to satisfy the information needs of all nationalities, including national minorities. Article 26 stipulates basic requirements for programmes and programme services of *Eesti Raadio* and *Eesti Televisioon*, and pursuant to subsection 2 of Article 26, the programmes and programme services of *Eesti Raadio* and *Eesti Televisioon* shall influence everyone to respect human dignity and observe laws considering the moral, political and religious beliefs of different nationalities.

(ix) the right to freedom of peaceful assembly and association

The right to freedom of peaceful assembly

274. The right of assembly is provided in Estonia by Article 47 of the Constitution, which states "All persons shall have the right, without prior permission, to peacefully assemble and conduct meetings. This right may be restricted in the cases and pursuant to procedure provided by law to ensure national security, public order, morals, traffic safety, and the safety of participants in a meeting, or to prevent the spread of an infectious disease."

275. The purpose of the Public Assemblies Act in accordance with Article 47 of the Constitution is:

- 1) to guarantee people's right to assemble peacefully and to conduct meetings in accordance with fundamental rights, freedoms and duties and the principles of a democratic country governed by rule of law;
- 2) to establish restrictions for organising and conducting of public meetings that are necessary to ensure national security, public order, morals, traffic safety, and the safety of participants in a meeting, or to prevent the spread of an infectious disease.

276. For the purposes of the Public Assemblies Act, a public meeting is a meeting, demonstration, rally, picket, religious event, procession, or other manifestation conducted on a square, in a park, on a road, street or other public place in open air.

277. It is prohibited to organise a meeting that:

- 1) is directed against the independence and sovereignty or the Republic of Estonia or at violently changing the current system of government;
- 2) incites to violently infringe the territorial integrity of the Republic of Estonia;
- 3) incites national, racial, religious or political hatred, violence or discrimination between social strata;
- 4) incites to violate public order or undermines morals.

278. It is prohibited to conduct a public meeting:

- 1) in a border post or closer than 300 metres to the state border;
- 2) closer than 50 metres to a unit of the defence forces or the territory of a defence forces establishment;
- 3) on a bridge, on rails and in a mine;
- 4) under a high-voltage electric line;
- 5) on a territory where an infectious disease has spread;
- 6) in a dangerous place in nature or in other place that may be dangerous to people.

279. The Act also establishes requirements for organisers of public meetings. The organiser and steward of a public meeting has to be an adult person who has active legal capacity and who is:

- 1) an Estonian citizen, or;
- 2) an alien staying in Estonia on the basis of a permanent residence permit.

280. The organiser of a meeting has to submit a notice of meeting at least seven days prior to the date of conducting the meeting:

- 1) to the rural municipality government or city government on whose administrative territory the public meeting is to be conducted;
- 2) to the county government if the public meeting is to be conducted on the administrative territory of several municipalities or cities of that county;
- 3) to the Government of the Republic if the public meeting is to be conducted on the administrative territory of several counties.

If reorganisation of traffic is needed for conducting a public meeting, the organiser has to submit the relevant notice 10 days prior to the date of conducting the public meeting and enclose with the notice a traffic scheme approved by the police and local government.

281. The organiser of a public meeting is required to:

- 1) be present at the meeting and ensure peaceful conducting of the meeting;

- 2) ensure the safety of participants in the meeting and if necessary use barriers to limit dangerous areas;
- 3) observe the requirements of health protection;
- 4) warn persons who cause disturbances;
- 5) stop a speaker if the speaker makes statements that call the participants in the meeting to engage in prohibited activities;
- 6) comply with the orders of the officials of the police, medical and rescue services;
- 7) terminate the meeting prematurely if the activities of the meeting become violent and endanger public order or people's life or health.

282. The steward of a meeting is required to observe the following requirements for the conducting of public meetings:

- 1) to be present at the place of conducting the meeting;
- 2) to propose to police officials present at the meeting to remove persons who disregard his or her orders;
- 3) to comply with the orders of the officials of the police, medical and rescue services;
- 4) to carry a clearly visible identification with the indication "Steward".

283. Participants in a public meeting are required:

- 1) to behave peacefully in the meeting;
- 2) to comply with the orders of the organiser, steward, officials of the police, medical and rescue services at the meeting.

284. The official accordingly authorised by the head of a government agency or local government agency is required to notify the relevant police prefect and medical and rescue service of the date, place and route of the public meeting during one day from the receipt of the notice of public meeting.

285. The Act also establishes requirements for the notice of conducting a public meeting. If the notice is not submitted in accordance with the requirements provided by law or if conducting of another public meeting at the same time and at the same place or route has been registered earlier, the official of the government agency or local government agency has the right not to register the notice. The official will promptly issue the organiser a reasoned communication to that effect, referring to the provisions of the law according to which the notice was not registered. The organiser may submit a new notice of conducting a public meeting that complies with the requirements of law, or the organiser may dispute the decision not to register the notice in administrative court. Conducting of a public meeting is prohibited if the notice for public meeting was not registered.

286. Conducting of public meetings during emergency situations and states of emergency is regulated by the Emergency Situation Act and the State of Emergency Act.

The right to association

287. Although the right of association does not require formal registration by a public authority, in the majority of cases it is in the interests of the founders to found a legal

association as a legal person (in order to own collective property and to be liable for their actions collectively). In accordance with the General Principles of the Civil Code Act, a legal person in private law may be founded pursuant to the Act concerning the corresponding category of legal persons (Non-profit Associations Act, Political Parties Act, Churches and Congregations Act, Commercial Code, Co-operatives Act, etc.), and a legal person in public law may be founded pursuant to the Act directly concerning that legal person.

288. The Estonian Constitution makes a distinction between forming non-profit and profit-making associations. The Constitution establishes that "Everyone has the right to form non-profit undertakings and unions" (Article 48). Article 31 further stipulates that "Estonian citizens have the right to engage in enterprise and to form commercial undertakings and unions. Conditions and procedure for the exercise of this right may be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law".

289. Pursuant to the Non-profit Associations Act, every natural or legal person who complies with the requirements of the articles of association of a non-profit association may be a member of the non-profit association. A non-profit association has to comprise at least two members unless the law or the articles of association prescribe a greater number of members. The management board decides on membership in a non-profit association unless this is placed in the competence of the general meeting or some other body by the articles of association. A non-profit association may be founded by at least two persons. The founders may be natural or legal persons. In order to found a non-profit association, the founders enter into a memorandum of association. A memorandum of association will set out the name, location, address and objectives of the non-profit association being founded; the names and residences or locations, and the personal identification codes or registry codes of the founders; the obligations of the founders with regard to the non-profit association; the names, personal identification codes and residences of the members of the management board. Upon conclusion of a memorandum of association, the founders also approve the articles of association of the non-profit association as an annex to the memorandum of association. Non-profit association must have a management board that manages and represents the association. The management board may have one member or several members. Members of the management board must be natural persons with active legal capacity and at least one-half of the members of the management board must be persons whose residence is in Estonia.

290. Pursuant to the Commercial Code, any natural person may be a sole proprietor (self-employed person). If a person is without active legal capacity, a legal representative shall conclude transactions in the name of the person to the extent provided by law. If the active legal capacity of a person is restricted, he or she may, under the conditions provided by law, conclude transactions with the consent of a legal representative. According to the Commercial Code, both natural and legal persons may be founders of commercial undertakings.

291. According to sociological surveys, the participation in associations among different ethnic groups is as shown in the following table.

Table 6. Participation in associations

Participation in associations (%)	Estonians	Russians	Others
In none	51.5	61.2	52.4
In one	26.8	29.6	40.8
In two	14.0	7.8	3.9
In three	5.0	1.0	1.9
In four or more	2.6	0.5	1.0

292. Many non-profit associations have joined under different umbrella organisations. For example, the Network of Estonian Non-profit Organisations (NENO) that operates already since 1991. The NENO is a membership organisation founded for common implementation and protection of the interests of Estonian non-profit associations and foundations that gives a contribution to the development of a balanced society with its activities. The main objectives of the organisation are to develop the common activities of non-profit associations and foundations in Estonia and to express and protect their views and common interests before the state and local government bodies, to introduce non-profit activities and their good traditions, and to involve the informed public and its members in developing civil society in Estonia.

293. Every non-profit association or foundation that is registered in Estonia and operates in public interest may apply for membership in the NENO.

The Network of Estonian Non-profit Organisations had 129 legal members as at May 2001. All these non-profit associations and foundations are recognised organisations in the non-profit arena in Estonia and their activities are aimed at charitable supporting of science, culture, education, human rights, sport, health care, social welfare, nature protection and sustainable development in public interests.

(e) economic, social and cultural rights, in particular

(i) the right to work and free choice of employment, etc.

294. In social sphere, Article 29 of the Constitution guarantees the right to work and to free choice of employment by establishing: “An Estonian citizen has the right to freely choose his or her sphere of activity, profession and place of work. Conditions and procedure for the exercise of this right may be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.” In the same Article, the Constitution places an obligation on the state to organise vocational training and assist persons who seek employment in finding work.

295. Pursuant to the Aliens Act, an alien must hold a work permit to work in Estonia.

The following do not require a work permit in order to work in Estonia:

- 1) aliens with permanent residence permits;
- 2) aliens who have arrived in Estonia at the invitation of the Government of the Republic or a government agency authorised thereby for a stay of up to one year for the implementation of a co-operation or aid programme;
- 3) aliens who applied for a residence permit before 12 July 1995 and to whom a residence permit has been issued pursuant to the procedure provided in the Aliens Act.

296. Pursuant to Article 10 of the Employment Contracts Act, it is illegal to allow or give preferences, or to restrict rights on the grounds of the sex, nationality, colour, race, native language, social origin, social status, previous activities, religion, political or other opinion, or attitude towards the duty to serve in the armed forces of employees or employers. It is also illegal to restrict the rights of employees or employers on the grounds of marital status, family obligations, membership in citizens' associations, or representation of the interests of employees or employers.

297. It is not contrary to the above to:

- 1) allow and give preferences based on pregnancy or the raising of children;
- 2) take into account the sex of an employee in hiring or assigning duties if this is unavoidable due to the nature of the work or working conditions;
- 3) allow a suitable working and rest time regime which satisfies the religious requirements of an employee;
- 4) require language skills necessary for the work and pay compensation for proficiency in languages.

298. The rights granted to employees by law or administrative legislation may be extended by collective agreements or employment contracts, or by unilateral decisions of employers.

299. The rights granted to employees by collective agreements may be extended by employment contracts or unilateral decisions of employers.

300. Pursuant to the Employment Contracts Act, employment contract terms which are less favourable to employees than those prescribed by law, administrative legislation or a collective agreement are invalid. The law, administrative legislation or collective agreement applies instead of the invalid employment contract terms unless the parties agree on new terms.

301. Terms established by unilateral decisions of employers which are less favourable to employees than those prescribed by law, administrative legislation, collective agreements or employment contracts are invalid. The law, administrative legislation, collective agreement or employment contract applies instead of the invalid terms.

302. The Act prescribes that in the event of a conflict between provisions, the provision which is more favourable to employees applies.

303. Citizens of foreign states and stateless persons who reside in Estonia permanently have rights pertaining to employment equal to those of Estonian citizens unless otherwise prescribed by law.

Specific conditions pertaining to employment of citizens of foreign states and stateless persons who are residing in Estonia temporarily or for a specified period of time shall be prescribed by law.

304. The provision of employment services to persons who seek employment and to employers is regulated by the Employment Service Act. In accordance with the Act, employers and persons who seek employment who are permanent residents of Estonia or refugees staying in Estonia have the right to use employment services provided by

employment offices. Employment services are free of charge for persons who seek employment and for employers.

305. Employment service means a service to persons who seek employment to assist them in finding employment and to promote professional development, and to employers to assist them in finding suitable labour force. The types of employment service are:

- 1) informing of the situation in the labour market and of the possibilities of employment training;
- 2) employment mediation;
- 3) vocational training;
- 4) vocational guidance;
- 5) employment subsidy to start a business;
- 6) employment subsidy to employers to employ less competitive unemployed persons;
- 7) community placements.

306. Employment services facilitate the engagement in employment of persons who seek employment and assist employers in finding suitable labour force. The Act also establishes the principles of the provision of employment services:

- Employment services must facilitate the engagement in employment of persons who seek employment and assist employers in finding suitable labour force.
- The provision of employment services will be based on the needs and rights of employers to freely choose their labour force and on the needs and right of persons who seek employment to freely choose work.
- Upon provision of employment services, situation in the labour market and forecasts concerning it will be taken into account.
- Upon provision of employment services, state employment offices and employment service providers who are legal persons in private law or sole proprietors entered in the commercial register will act in co-operation, taking into account the proposals of organisations of employers and employees.
- Upon provision of employment services, preferences may not be given, and the rights of persons who seek employment may not be restricted on the grounds of their nationality, sex, age, type of disability, sexual orientation, colour, race, social origin, social status, religion, political or other beliefs, or representation of the interests of employees or employers, unless it is prescribed by other Acts.

307. The purpose of the Social Protection of the Unemployed Act that was passed on 14 June 2000 is to regulate the registration of persons as unemployed, the payment of state unemployment benefits, single benefits and study grants through the employment offices. On the basis of the Act, the Minister of Social Affairs adopted the regulation "The procedure for the extension of the period for the payment of the state unemployment benefit and the entitlement to the benefit". According to the Regulation, employment services are provided and unemployment benefits paid to:

- 1) permanent residents in Estonia;
- 2) aliens who stay in Estonia on the basis of a temporary residence permit;
- 3) refugees who stay in Estonia until the expiry of the term of residence permit.

308. On 13 June 2001, the Riigikogu passed the Unemployment Insurance Act that regulates the payment of benefits in the case of a person's unemployment.

Unemployment insurance is a compulsory type of insurance the purpose of which is the payment of benefits to employees in the case of their unemployment, collective redundancy and insolvency of the employer. Insured persons who have been registered as unemployed and who have been insured for at least 12 months during the period of 24 months prior to the registration as unemployed have the right to the unemployment insurance benefit.

309. Pursuant to the Draft Gender Equality Act, it is considered a discrimination in employment if the employer employs, promotes, chooses for a position, training or fulfilment of a duty a person of one sex, leaving aside a better qualified person of the opposite sex, except in the cases when the employer's behaviour had compelling reasons or the choice was based on facts not related to sex. Employer's activity is also considered discriminating if the employer establishes less favourable conditions of pay or other conditions to one employee than for an employee of a different sex who is doing the same or equal work.

If the person turns to court or other competent authority, presenting facts on the basis of which it may be presumed that there has been direct or indirect discrimination, the person against whom the complaint is filed has to prove that the principle of equal treatment was not violated.

310. The Wages Act determines the legal regulation of the remuneration of persons who work under an employment contract, the grant of guarantees and payment of compensation relating to remuneration.

311. An employer establishes wage rates according to the differences in work and working conditions, based on a collective agreement entered into between the employer and employees. The wage rate of an employee is determined by agreement of the parties upon entering into an employment contract. Wage rates are amended by agreement of the parties and upon amendment of the minimum wage if the minimum wage established in an enterprise, agency or other organisation is lower than the minimum wage established by the Government of the Republic or a collective agreement.

312. Pursuant to the Wages Act, it is prohibited to increase or reduce wages on the grounds of an employee's sex, nationality, colour, race, native language, social origin, social status, previous activities, religion, political or other opinion, or attitude towards the duty to serve in the armed forces. It is also prohibited to reduce wages on the grounds of the marital status, family obligations, membership in citizens' associations or representation of the interests of employees or employers.

313. The Wages Act also establishes the principle of equal pay according to which it is prohibited to establish different wage conditions for employees of different sex if they do the same work or work of equal value.

On the demand of an employee, the employer is required to prove that he or she has followed this principle and giving of preferences is due to objective circumstances not related to sex. An employee has the right to demand explanations concerning the bases for the calculation of wages.

314. An employee has the right to demand equal remuneration for the same work or work of equal value and the compensation of loss caused by the infringement of the

principle of equal pay. The duration, extent and type of unequal remuneration is taken into account in determining the sum of compensation. Upon employment, the employer is required to inform an employee of the legal regulation of equal remuneration.

Employment programmes

315. In the course of economic reforms, major businesses have concentrated in Tallinn and its surrounding areas. In order to reduce regional differences, the Government has approved six regional development programmes, regional policy loans and regional support system for supporting entrepreneurship. There are regional development programmes for the islands, mono-functional settlements, Ida Viru county (where the majority of population are non-Estonians), village movement, border areas and peripheral areas. The regional policy loan is intended to support businesses that are important from a particular region's point of view, to improve preconditions for entrepreneurship, to create jobs in areas with high rate of unemployment. Applications for support may be submitted by individuals, non-profit associations, local governments and entrepreneurs.

316. In Ida-Viru county, concluding of the so-called regional employment acts and other acts between regional authorities and social partners has been started.

317. In 1998, the project "Activating people with low competitive ability in the labour market" was started. The aim of the project is to create activation centres in regions with high unemployment. The task of the centres is to activate people with low competitive ability in the labour market and to support their return to the labour market. In 1998, activation centres were created in eight counties. The aim of the centres' work is to:

- help in search of employment the people who do not cope with it without outside help;
- create/restore the work habit among people who have been unemployed for a longer period;
- activate people who are capable to work but who apply for subsistence benefits and at the same time are not interested in finding work;
- assist local businesses in creating new jobs and this way increase employment.

318. In 1999, the programme "Increasing employment, avoiding long-term unemployment and preventing exclusion from employment of the persons belonging to risk groups" was initiated. The main aim of the programme is to prepare the employment action plan and sub-programmes on the basis of the plan. The employment action plan will be based on four main guidelines adopted by the European Union member states for developing employment:

- increasing employment;
- developing entrepreneurship;
- supporting adaptation with innovation among businesses and employees;
- strengthening policies to ensure equal possibilities.

319. In the framework of the programme, sub-programmes will be implemented that, in accordance with the priorities identified in the action plan, will help to develop

entrepreneurship, increase employment, reduce long-term unemployment and prevent exclusion of persons in risk groups from the labour market. There are plans to prepare measures to prevent the growth of unemployment among young people.

(ii) the right to form and join trade unions

320. On 14 June 2000, the *Riigikogu* passed the Trade Unions Act that provides the general rights of and bases for the activities of trade unions, and their relations with state and local government agencies and employers.

A trade union is an independent and voluntary association of persons which is founded on the initiative of the persons and the objective of which is to represent and protect the employment, service-related, professional, economic and social rights and interests of employees. Trade unions achieve their objectives acting as social dialogue partners to employers, associations of employers, local governments and the Government of the Republic in mutual informing, consulting and collective bargaining and in other issues involving the interests of employees.

321. Pursuant to the Trade Unions Act, persons have the right to found trade unions freely, without prior permission, and to join or not to join trade unions. The rights of employees or persons who seek employment may not be restricted on grounds of their membership in trade unions, on being elected representatives of trade unions or on other legal activities related to trade unions. Members of the armed forces who are in active service in the Defence Forces may not found or join trade unions.

322. Trade unions have the right to form and join federations and central federations in order to represent the rights and interests of employees. Trade unions have the right to join international organisations of employees.

323. In their legal activities, trade unions are independent of employers, associations of employers and representatives thereof, state agencies and local governments and other organisations. Trade unions have the right to independently organise their activities and management, to prepare their articles of association, action plans and freely elect their representatives.

324. Employers, associations of employers and representatives thereof, state agencies and local governments may not dissolve, restrict or prohibit the activities of trade unions, or intervene in the internal matters of trade unions. The activities of a trade union may be terminated only voluntarily or by a court judgment.

325. In accordance with the Act, in order to exercise their competence, trade unions have the right to:

- 1) receive freely information concerning employment and social affairs and other information concerning issues involving the interests of employees from employers, their representatives, state agencies and local governments;
- 2) conduct bargaining in employment, service-related and social issues with employers and the associations of employers, state agencies and local governments for entry into collective and other agreements;

- 3) submit proposals concerning draft legislation relating to the employment, service-related, professional, economic and social rights and interests of members of the trade unions (federations);
- 4) receive information on the situation in the labour market, vacant jobs and possibilities of employment training from state employment agencies through representatives elected by the trade unions;
- 5) disseminate their positions through mass media, own printing facilities and media, develop publishing, and to issue and distribute newspapers and other printed matter;
- 6) in order to achieve their objectives, organise meetings, political meetings, street parades, pickets and strikes pursuant to the procedure prescribed by law;
- 7) freely develop any kind of foreign relations in order to carry out their objectives specified in the articles of association, including joining international organisations of employees;
- 8) train and consult their members in employment and social issues and other issues involving the interests of employees;
- 9) trade unions have the right to exercise other rights prescribed in Acts or agreements.

326. Estonia has ratified the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, Article 11 of which provides for the freedom of setting up trade unions and their joining to protect one's rights.

327. At present, there are two trade union confederations (central unions) in Estonia: Estonian Central Union of Trade Unions (EAKL) with 26 member unions and TALO with 10 member unions. EAKL has approximately 65,000 members and TALO has around 50,000 members.

328. EAKL and TALO, as well as their member organisations, have set up extensive international relations with trade union organisations in Europe and in other countries. EAKL became a member of ICFTU in December 1994 and an observing member of ETUC in May 1998. In May 1999, EAKL is expected to become full member of ETUC and TALO the observing member of ETUC. Around 20 member unions of EAKL and TALO are members of vocational secretariats of ICFTU and branch committees (federations) of ETUC. In practice, the state has not interfered in the setting up of national trade unions nor in their membership in international trade union federations.

329. Since 1993, the Republic of Estonia has ratified the following ILO Conventions:

- C87 Freedom of Association and Protection of the Right to Organise Convention;
- C98 Freedom of Association and Protection of the Right to Organise Convention;
- C135 Workers' Representatives Convention (Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking);
- C144 Tripartite Consultation (International Labour Standards) Convention (Tripartite Consultations to Promote the Implementation of International Labour Standards).

330. The Republic of Estonia has submitted its reports on the fulfilment of the above ILO Conventions.

(iii) the right to housing

331. Relationships that arise when residential space is given for permanent dwelling are regulated by the Dwelling Act that provides also the basis for other normative acts regulating residential relationships in Estonia. Unless otherwise provided by an international agreement binding on Estonia, provisions of the Act are applied to foreign citizens and stateless persons residing in Estonia.

332. The object of housing relationships is the residential space. Residential space is a dwelling house or an apartment that can be used for permanent dwelling. The legal basis for the use of residential space is the right of ownership of the residential space, membership of a dwelling association (cooperative), residential lease contract or other bases provided by law. The Act also provides the guarantees of residential rights, according to which no one may be evicted from residential space or his or her rights of using the residential space restricted in any other way than the procedure and bases provided by the Dwelling Act.

333. The owner may himself or herself use the residential space, give it for use by his or her family members, or on the basis of a contract for use by other persons, or use it for housing temporary residents pursuant to the procedure provided by the Dwelling Act. Family members of the owner of a residential space whom he or she has housed in the residential space owned by him or her have the right to use the rooms equally with the owner unless otherwise agreed upon their housing. They have the right to house their minor children in the space given to their use by the owner; housing of other family members is allowed only with the permission of the owner.

334. The Dwelling Act also regulates relationships between residential lessors and lessees. According to the residential lease contract, the lessor undertakes to give into other person's (lessee's) use the residential space for dwelling during the agreed period and according to the agreed conditions, the lessee undertakes to use the rented space in accordance with its purpose and to pay the rent.

335. Residential disputes are settled in court. Local government units may form residential dispute committees for extra-judicial settlement of disputes arising from the conclusion, extension or amendment of a residential lease contract or determining or changing the amount of rent, as well as other disputes arising from the implementation of the residential lease contract. The committee acts as a conciliation committee. The dispute between the lessor and lessee is settled in the committee on the basis of a common written application of the interested parties or on the basis of a written application of one party to which the consent of the other party for settling the dispute in the committee has been added.

336. The term for applying to the committee is two months from the date when the person learned or should have learned about the violation of his or her rights. Applying to the committee is exempt from the payment of state fee. The committee will not begin to settle the dispute or ends the proceeding if a claim to the court has been submitted concerning the same dispute or if the claim has already been settled by the committee or court, or if settling the dispute is outside the competence of the committee. The applicant is sent a notice to this effect.

337. The committee may also settle disputes on the basis of an oral application of an interested party who has appeared at the meeting of the committee. Upon submitting of an oral application, the committee acts as a conciliator of the parties, limiting itself to discussing and explaining the matter.

338. In the case of disagreement with the committee's decision, the disputing parties may turn to court for reviewing the same dispute during one month from the date of receiving the copy of the committee's decision. The recourse to court is in the form of a statement of claim, not an appeal of the committee's decision. The committee's decision will enter into force after the date of turning to court has passed if none of the parties has filed a statement of claim to the court. Complying with the committee's decision that has entered into force is obligatory for the parties.

339. On the basis of the Dwelling Act, it is within the competence of the local government council to establish the procedure for the use of residential space in municipal ownership. The procedure for granting social housing is established by the rural municipality council or city council.

340. Pursuant to the Social Welfare Act, local government authorities are required to provide housing for persons or families who are unable or incapable of securing housing for themselves or their families and to create, if necessary, the possibility to lease social housing or to use a shelter. Persons who have difficulties moving about, caring for themselves or communicating in a dwelling will be assisted by the rural municipality government or city government in adapting their dwelling or in obtaining a more suitable dwelling

Table 7. Living conditions in 1998.

	Average	incl.			
		in city	in country	Estonians	non-Estonians
1. Type of house %					
Single family home, farmhouse, row house	27	14	55	37	7
Multi-apartment house	71	84	44	61	91
Dormitory	2	2	1	2	2
2. Avrg. no. of rooms per family member	1,2	1,1	1,3	1,2	1,1
3. Net floor area per family member m ²	32,3	27	44	37	23
4. Conveniences %					
Water closet	76	87	53	68	91
Bathroom or shower	71	81	50	63	88
Sauna	19	10	40	27	5
Sewer	83	92	64	77	94
Central heating	67	78	42	56	87
Gas stove	53	54	51	49	61
Electric stove	44	44	45	47	38

Hot water	55	65	33	46	73
Telephone*	55	60	44	55	55
5. Closest food shop %					
Up to 1 km	89	99	68	85	98
1-3 km	8	1	23	11	2
more than 3 km	3	...	9	4	...
6. Closest basic school					
Up to 1 km	70	86	36	63	83
1-3 km	16	12	23	18	12
more than 3 km	14	2	41	19	5
7. Closest polyclinic, medical assistance %					
Up to 1 km	54	61	38	49	62
1-3 km	25	30	15	25	26
more than 3 km	21	9	47	26	12
8. Closest public transport stop %					
Up to 1 km	91	96	79	89	94
1-3 km	8	4	18	10	6
more than 3 km	1	...	3	1	...

* as compared to 1994, provision of telephones in apartments has significantly improved, in 4 years a growth of 32%, in addition also the number of mobile phones has grown rapidly
Source: living standards survey

341. According to the Housing Development Plan approved by the Government of the Republic, it is intended to start housing development programmes (building, reconstruction) based on partnership with the participation of the state, local governments, various financial institutions, private real estate entrepreneurs, and first of all non-profit organisations active in the housing sphere, incl. housing development associations. The local governments will offer either free plots of land or buildings in need of renovation, and local governments will have the right to establish the criteria for choosing the residents, the proportion of municipal apartments and price range of apartments. Third sector organisations or private entrepreneurs would be the customers ordering the programmes, and commercial banks as a rule would be financiers. Funds from the state budget would be allocated as purpose-oriented grants for the programmes that best meet the strategic development plan in the housing sphere.

342. The creation of the municipal housing fund will be started first of all by repairing and renovating the existing housing that is suitable for dwelling (lease housing, social housing, social rehabilitation centres, shelters and other forms of housing for poor and marginal social groups) with the direct support of the state. First of all, in the whole housing sector those measures are supported that would allow for a more economical use of the existing housing.

343. There are plans to create an information bank with the needs of different people seeking housing and potential possibilities to offer housing on the basis of the existing housing fund, to offer loans on favourable terms and to improve legislation for better

regulation of residential lease relationships (approximately half of the tenants in houses returned to previous owners wish to remain tenants either in privately owned or municipal apartments).

Table 8. Social welfare institutions

Social welfare institutions	1998	1999	2000
Social welfare institutions for children	37	39	37
Social welfare institutions for adults	107	113	115
Wards in social welfare institutions for children	1699	1710	1715
Inmates in social welfare institutions for adults	5609	5794	5785

Source: Statistical Office of Estonia

Table 9. Shelters and social rehabilitation centres

Shelters and social rehabilitation centres	1998	1999	2000
<i>Institutions providing temporary assistance</i>	24	25	28
Shelters	14	16	18
Social rehabilitation centres	10	9	10
<i>Total number of places</i>	630	701	706
Shelters	214	234	298
Social rehabilitation centres	416	467	408
<i>Total number of persons who used the services of the institution</i>	5291	6450	6696
Shelters	1669	1702	2119
Social rehabilitation centres	3622	4748	4577

Source: Statistical Office of Estonia

(iv) the right to public health, medical care, social security and social services

344. Social security in Estonia includes five insurance programmes:

- pension insurance that contains national pension, old-age pension, pension for incapacity for work and survivor's pension;
- health insurance that contains expenses for medical services, compensation of the cost of medicinal products, sickness benefits and maternity benefits;
- family allowances;
- unemployment benefits;
- death grant.

State pension insurance

345. General pension insurance is regulated by the State Pension Insurance Act that was passed in 1998. The Act entered into force on 1 January 2000. The Act provides the organisation of state pension insurance, the conditions and procedure for the grant and payment of state pensions, etc.

346. The State Pension Insurance Act provides for four classes of state pension:

- national pension;
- old-age pension;
- pension for incapacity for work;
- survivor's pension.

347. A national pension is granted to persons who do not have the right to receive an old-age pension, pension for incapacity for work or survivor's pension because they have not completed a sufficient number of years of pensionable service or their accumulation period is insufficient. Thus, the following have the right to receive a national pension:

- persons who have attained 63 years of age who do not have the right to receive another class of pension and who have been permanent residents of Estonia or have resided in Estonia on the basis of a temporary residence permit for at least five years before making a pension claim, if they do not receive a pension from another state;
- persons who are declared permanently incapacitated for work, whose loss of capacity for work is at least 40 per cent and who have not completed a sufficient number of years of pensionable service or whose accumulation period is insufficient for the grant of a pension for incapacity for work, if they do not receive a pension from another state;
- persons who, in connection with the insufficient number of years of pensionable service or the insufficient accumulation period of their providers, do not have the right to receive a survivor's pension, if they do not receive a pension from another state;
- persons who have reached the age of old-age pension who were paid a national pension on the basis of permanent incapacity for work until the attainment of the age of old-age pension or the pension retained in the earlier amount until specified term.

348. Persons who have attained 63 years of age or who are of an age set out in this Act and who have completed at least fifteen years of pensionable service or whose accumulation period acquired in Estonia is at least fifteen years have the right to receive an old-age pension. Old-age pensions are granted for life.

349. The right to receive an old-age pension under favourable conditions arises:

- 1) five years before attaining the age prescribed in the Act for a mother, father, step-parent, guardian or caregiver who, for at least eight years, has raised a disabled child, a child under 18 years of age with a moderate, severe or profound disability, a child under 18 years of age who is disabled from childhood, or five or more children, if he or she has completed at least fifteen years of pensionable service or his or her accumulation period is at least fifteen years;
- 2) three years before attaining the age prescribed in the Act for a mother, father, step-parent, guardian or caregiver who has raised four children for at least eight years, or one year before attaining the age prescribed in the Act for a mother, father, step-parent, guardian or caregiver who has raised three children for at least eight years, if he or she has completed at least fifteen years of pensionable service or his or her accumulation period is at least fifteen years;

3) other persons listed in the Act.

350. A person has the right to receive a pension for incapacity for work from the age of 16 years until attaining the pensionable age provided for in the Act if he or she is declared permanently incapacitated for work pursuant to the procedure established by the Government of the Republic and his or her loss of capacity for work is 40-100 per cent; and in the case of permanent incapacity for work a person who has completed the years of pensionable service or acquired the accumulation period in Estonia provided for by the Act by the time the pension may be granted. An alien residing in Estonia on the basis of a temporary residence permit has the right to receive a pension for incapacity for work during the term of the temporary residence permit if he or she is declared incapacitated for work in Estonia and meets the requirements for receiving a pension provided for in the Act.

351. Upon the death of a provider, a survivor's pension will be granted to family members who were maintained by him or her. Children, parents and the widow or widower of the provider will be granted a pension regardless of whether they were maintained by the provider or not. An alien residing in Estonia on the basis of a temporary residence permit will be granted a survivor's pension during the term of the temporary residence permit if the right to receive the pension arises in Estonia.

Family members who have the right to receive a survivor's pension are:

- 1) a child, brother, sister or grandchild who is under 18 years of age (or who is under 24 years of age and is a student enrolled in daytime study at an upper secondary school or vocational educational institution or a student enrolled in full-time study at a university or institution of applied higher education), or who is older if he or she was declared permanently incapacitated for work before he or she attained 18 years of age (or in the case of a student enrolled in daytime or full-time study, before he or she attained 24 years of age). A brother, sister or grandchild has the right to receive a pension if he or she does not have parents with capacity for work;
- 2) a parent, who is of pensionable age or permanently incapacitated for work, or a widow or widower who is of pensionable age or permanently incapacitated for work whose marriage to the provider had a duration of at least five years;
- 3) a divorced spouse if he or she attained pensionable age or was declared permanently incapacitated for work before the divorce, or within three years after the divorce if the marriage had a duration of at least twenty-five years;
- 4) one parent, or the widow, widower or guardian who is not employed and is raising in his or her family a child, brother, sister or grandchild of the provider who is under 14 years of age.

352. For some categories of workers (on the basis of lists of professions who work in difficult conditions or conditions hazardous to health, and some separately established categories), preferable conditions are applied with regard to the required pensionable age and pensionable service. These exceptions are regulated by the Superannuated Pensions Act and Old-Age Pensions on Favourable Terms Act.

353. National pensions, old-age pensions, pensions for incapacity for work, survivor's pensions, as well as superannuated pensions and old-age pensions on favourable terms are granted and paid by pension offices which are regional divisions of the State

Social Insurance Board. The Social Insurance Board is under the area of administration of the Ministry of Social Affairs.

354. Pensions are paid to persons for whom contributions are paid in Estonia. Today, Estonia has social insurance agreements with Finland, Latvia, Lithuania and Ukraine.

Health insurance

355. Pursuant to the Healthcare Act, every person staying on the territory of Estonia has the right to emergency medical assistance. Emergency medical assistance means assistance in a situation where delaying the assistance directly endangers a person's life or health. If the person is uninsured and has no means of income, the county government will pay for the treatment from the funds allocated for this purpose by the state.

356. Health insurance is a state-guaranteed system for the payment of the costs related to preserving the health of residents of the Republic of Estonia, the costs related to their temporary incapacity for work and their medical treatment as a result of illness or injury, and benefits in the event of pregnancy and childbirth. Health insurance is regulated by the Health Insurance Act.

357. All persons for whom social tax is paid or who have a duty to pay social tax, and also all persons equal to insured persons are deemed to be insured with compulsory health insurance.

The following non-working persons have equal status to an insured person:

- 1) a spouse dependent upon an insured person;
- 2) a child under 18 years of age;
- 3) a student enrolled in daytime study;
- 4) a parent or a guardian who is caring for a disabled child under 18 years of age or for a person disabled since childhood;
- 5) a curator of a category I disabled person;
- 6) a pregnant woman from the twelfth week of pregnancy;
- 7) a person who receives a state pension granted in Estonia.

358. The health insurance of residents of foreign states not covered by compulsory health insurance is organised pursuant to the procedure provided by international agreements.

359. Health insurance benefit is a monetary compensation payable to an insured person or a non-monetary compensation payable for an insured person under the conditions and pursuant to the procedure provided for in this Act. The monetary health insurance benefit is the benefit for temporary incapacity for work.

The non-monetary health insurance benefits are:

- 1) health or other service provided for health promotion, disease prevention or treatment;
- 2) medicinal products distributed at a discount, to the extent covered by the health insurance fund.

360. Health insurance covers medical examinations and treatment services, for example:

- doctor's appointments
- diagnostic examinations
- treatment procedures
- prophylactic procedures
- hospital bed days
- operations
- procedures for disease prevention (vaccination)
- follow-up treatment of diseases (sanatorium vouchers)
- aids, etc, fitted during or after an operation

361. The patient's risk of own account in the payment for a medical service is the visit fee. The visit fee is a monetary payment established by the Ministry of Social Affairs that people pay when they go to a medical institution or for a doctor's home visit. The third type of health insurance support is the compensation of the cost of medicinal products for certain categories of insured persons. Health insurance funds pay pharmacies the difference between the sum paid by the patient and the normal cost of the medicine.

362. Compulsory health insurance is organised by the Estonian Health Insurance Fund. The Estonian Health Insurance Fund is a uniform health insurance system in public law and financing of its activities is based on purpose-oriented source of income. The health insurance system observes the principle of social justice in ensuring provision of medical services to insured persons and receiving other types of health insurance benefits. The health insurance fund is a client-centred and open organisation whose aim is to provide access for insured persons to high-quality medical services and to guarantee the feeling of security in the case of possible sickness of a person.

363. The mission of the health insurance fund is to provide insured persons on the basis of solidarity and limited own contribution with the health insurance benefits – treatments services, medicines at discount prices, temporary incapacity for work benefits – arising from their needs and within the revenue base of the health insurance fund.

364. Health insurance is financed from the health insurance part (13% of the payments made to employees) of the social tax that is paid by employers. Compulsory health insurance benefits are paid by the health insurance fund of the place where the person has been registered as insured.

365. On 30 June 2001, the register of insured persons in the Estonian Health Insurance Fund included 1 287 700 persons. The budget of the Health Insurance Fund for 2001 was 445,702,100 Estonian kroons.

366. Citizens of other countries are provided medical assistance in accordance with international agreements entered into by Estonia and respective states.

State family benefits

367. Pursuant to the State Family Benefits Act, families with children have the right to receive state family benefits for the partial reimbursement of expenses relating to the care, raising and education of children.

Family benefits are granted and paid to:

- 1) permanent residents of Estonia;
- 2) aliens residing in Estonia who have temporary residence permits;
- 3) refugees staying in Estonia.

368. The Act establishes the following state benefits:

- 1) childbirth allowance;
- 2) child allowance;
- 3) child care allowance;
- 4) single parent's child allowance;
- 5) conscript's child allowance;
- 6) child's school allowance;
- 7) foster care allowance;
- 8) start in independent life allowance.
- 9) allowance for families with four or more children and families raising triplets.

Table 10. Amount of payments of state family benefits, 1998-2000
(thousand kroons)

Amount of payments of state family benefits in a year	1998	1999	2000
Total	1 159 272	1 146 188	1 317 024
Childbirth allowance	31 304	32 238	42 023
Child allowance for the 1 st child	381445	373348	366991
Child allowance for the 2 nd child	256330	247265	239331
Child allowance for the 3 rd and each subsequent child	113276	108049	105494
Single parent's child allowance	42433	42346	85084
Maintenance allowance to a person on child care leave with up to a 2-year-old child	160826	159611	-
Maintenance allowance to a person on child care leave with a 2- to 3-year-old child	37697	37312	-
Single parent's child allowance to a disabled person raising a child alone	3308	3970	-
Maintenance allowance to a non-working person raising a 3- to 18-year-old disabled child	7071	7522	-
Supplementary maintenance allowance to a person raising a 2- to 3-year-old disabled child	368	446	-
Child care allowance for an up to 3-year-old child	-	-	270099
Child's school allowance, once in a year	105354	104936	102528
Other child- and family benefits			

Source: Statistical Office of Estonia

369. Pursuant to the Social Welfare Act, persons residing on the territory of the Republic of Estonia whose monthly income is below the subsistence level established by the Government of the Republic based on the minimum consumption expenditure have the right to receive subsistence benefits. The grant of a subsistence benefit is based on the income of the person married to the benefit applicant or living in the same dwelling with the benefit applicant in a conjugal relationship, the income of their children and parents who are maintained by them or of other persons using one or more sources of income jointly or having a shared household. Subsistence benefits are granted and paid by rural municipality governments and city governments under the conditions and pursuant to the procedure established by the Government of the Republic from funds in the state budget prescribed for this purpose.

(v) the right to education and training

Adult training

370. Pursuant to the Adult Training Act, adults have a possibility to learn throughout their life. Adult training institutions are institutions and organisations whose statutes set out adult training as one of their activities. On the basis of the Act, local government bodies are required to support the participation of disabled and socially less secured learners in training courses. The Adult Training Act stipulates that local governments shall ensure opportunities to acquire basic and secondary education for everyone permanently residing in their administrative territories.

371. According to the Basic Schools and Upper Secondary Schools Act persons who have passed the minimum permitted school-leaving age and have not acquired basic education may acquire basic education in the form of evening courses or distance learning, and graduate from school as external students. Persons who have acquired basic education may acquire general secondary education in the form of evening courses or distance learning, and graduate from school as external students. Attendance of state schools and general education schools of local governments is free of charge.

372. Pursuant to the Vocational Educational Institutions Act, a vocational educational institution may organise adult in-service training for pay. In accordance with the Minister of Education regulation no. 25 of 27 October 1998 on "The fields, forms and procedure for adult training provided by vocational educational institutions" in-service adult training is provided in the form of courses. Courses may be held for the purpose of acquiring a new profession, specialisation or vocation by initial training or retraining and further training.

373. Pursuant to the Applied Higher Educational Institutions Act, one of the functions of applied higher educational institutions is to provide further training. According to the Act, further training means improvement of professional, specialised and vocational knowledge and skills in the acquired profession, specialisation or vocation. All persons with secondary education have equal right to compete for admission to an applied higher educational institution. Thus, adults can learn a profession, specialisation or vocation if they so wish and have means for study.

374. The Income Tax Act provides tax benefits according to which employer's training expenses are exempt from company income tax, or a person's and his or her dependants' training expenses are deducted from the person's taxable income.

375. State employment offices organise employment training for persons who have been registered as unemployed and for persons who receive a disability pension and are with partial capacity for work. Employment training is divided into professional education and training and training for adaptation with the requirements of the labour market.

376. Pursuant to the Social Protection of the Unemployed Act, unemployed persons and persons seeking employment have the right to receive information from the state employment offices about the possibilities of employment training. Employment offices have county databases with training possibilities; at the end of 1999, nationwide employment services information system was completed that can be used to obtain information about training possibilities all over Estonia. Brochures have been prepared to introduce possibilities for employment training and employment offices also participate at fairs.

377. The database KETE was created that contains up-to-date information on vocational schools, their curricula and studying possibilities, vocational education statistics and main trends in the labour market. The KETE was created in cooperation of the Vocational Education and Employment Monitoring Centre and the Ministry of Education and the Ministry of Social Affairs, financial support was received also from the European Training Foundation.

378. The creation of a state qualification system has been started in the course of which internationally recognised standards of vocational skills and their assessment system and the procedure for certification and issue of vocational certificates will be prepared. The system will have to meet the requirements of employers for the quality of labour and motivate employees to improve themselves continuously in order to compete in the labour market.

(vi) the right to equal participation in cultural activities

379. According to Article 49 of the Estonian Constitution, everyone has the right to preserve his or her national identity. Article 50 of the Constitution further stipulates that national minorities have the right, in the interests of national culture, to establish self-governing agencies under conditions and pursuant to procedure provided by the National Minorities Cultural Autonomy Act.

380. The basic idea of the National Minorities Cultural Autonomy Act is the acceptance of the right of ethnic minorities to preserve their ethnic identity, culture and language.

381. The State Integration Programme provides that an analysis of the National Minorities Cultural Autonomy Act will be performed in co-operation with the President's Roundtable and other parties.

382. In 2000, approximately 160 ethnic cultural societies and art groups operated in Estonia (see Appendix 1). Ethnic cultural societies and art groups have mostly joined under 4 associations and federations of ethnic cultural societies:

- the International Federation of Associations of Ethnic Cultural Societies "Lüüra" (28 societies and 5 art groups)
- the Association of Estonian Nationalities (22 societies)
- the Federation of Slavic Educational and Charitable Associations in Estonia (46 societies and 20 collectives)
- the umbrella organisation of ethnic cultural societies operating in Ida-Viru County, the Roundtable of Ethnic Cultural Societies of Ida-Viru County (22 societies).

The above-mentioned associations are state partners in the advancement of educational and cultural life of national minorities and ethnic minorities.

383. On 18 May 1989 the Association of Estonia's Peoples was established. Pursuant to its by-laws, it is a union of national associations and organisations, the basic aim of which is to protect cultural, political, social and economic interests of national minorities. In recent years the activities of the Association of Estonia's Peoples have centred around monitoring the observance of the rights of national minorities, organising meetings between agencies dealing with problems pertaining to national minorities and the representatives of the minorities, and mediating information and experiences between the cultural societies.

384. The idea to found the Union of Estonia's Associations of National Cultures "Lüüra" was born during a joint festival on 9 May 1995. The festival developed into a tradition and evolved into the organisation "Lüüra" that was registered in 1997. The main activity of "Lüüra" is to organise yearly cultural festivals, in the framework of which seminars, exhibitions and other events are organised. Once or twice a year "Lüüra" organises training seminars, instructing participants on how to address foundations and state agencies. In addition to the Ministry of Culture, also the City of Tallinn has supported the activities of "Lüüra".

385. "Lüüra" runs a cultural university "I Live in Estonia", which teaches Estonian history and culture. The members of "Lüüra" - Armenian, Georgian, Ingrian Finns', Korean, Romany, Setu, Ukrainian and Russian Societies - teach their children in Sunday schools their languages, history and cultures. Within the framework of "Lüüra" there is a legal aid centre and a political club, as well as information and publishing centre.

386. The Union of Slavic Educational and Charity Societies, which unites several Russian-speaking organisations, organises the traditional song-festival "*Slaavi Pärg*" (*Slavic Wreath*).

387. The state-financed Russian Drama Theatre operates in Tallinn. The state supported the theatre with 6,408,000 kroons in 1998. In 1998, the Russian Drama Theatre staged 9 new productions, the total audience amounted to 73.3 thousand and the number of performances was 274.

388. The main outlets for the cultural interests of national minorities and ethnic minorities are ethnic cultural societies and art groups.

389. Other forms of educational organisation, including hobby schools, have been used as the main outlets for the educational interests of other national minorities and ethnic minorities. National minorities and ethnic minorities have also used Sunday schools for the advancement of their educational and cultural life.

Sunday schools

390. Sunday schools are part of the hobby education offered strictly on a voluntary base, established for study of culture, history, origins and languages of ethnic minorities. The establishment of Sunday schools is regulated by the Private Schools Act, Hobby Schools Act and National Minorities Cultural Autonomy Act.

391. There is only one Sunday school (Tallinn Armenia Sunday School) that has officially registered by the Ministry of Education. No other school has applied for the formal hobby school status.

392. According to unofficial data gathered from associations of ethnic minorities there are about 30 Sunday schools acting as informal voluntary cultural societies. Those schools enjoy the financial support from the Estonian Government (the Ministry of Culture and the Ministry of Education), local authorities, the Integration Foundation and from s.c. Multi-donor project (Nordic/UK/UNDP project Support to the Integration).

393. For instance, in the year 2000 the cultural societies and their Sunday Schools were supported as follows: 1 540 000 EEK from the Ministry of Culture, 150 000 EEK from the Ministry of Education, 663 300 EEK from the Integration Foundation and 545 000 EEK from Multi-donor projects (the Integration Report data).

394. In addition to educational institutions for national minorities and ethnic minorities, this role is also to a certain extent fulfilled by the teaching of subjects in another language at Estonian-language and Russian-language schools. The shaping of the concept of the multicultural school, which was commenced in 2000 through co-ordination with the Jaan Tõnisson Institute, and various continuing education courses on this topic for teachers and school administrators, are also important.

State programmes

395. There are several programmes to increase in Estonian society the awareness of cultural differences, to expand the opportunities of the ethnic minorities living in Estonia for the preservation of their linguistic and cultural distinctiveness and to increase their knowledge about Estonia.

Development of materials introducing Estonia's multiculturalism (on history, culture, Estonians, ethnic minorities)

Output	Budget
1. Ten projects were supported in the framework of the Estica [Estonian subject matter] competition.	294 786 EEK
3. The documental <i>Tere kallis kodu [Hello dear home]</i> was supported. This half-hour long OÜ Filmistuudio AMOR film tells the viewers about people who live in a country that is not their ethnic homeland. The film is a topic film that uses portraits and asks the question “What is a homeland?”	52 000 EEK
4. The compilation <i>Integratsioonimaastik – ükskõiksusest koosmeeleni [The Landscape of Integration: from Indifference to Consensus]</i> . The compilation of articles, published by the Jaan Tõnisson Institute, contains materials from the international conference “Cultural pluralism in Estonia: policies and solutions” held on 8-9 October, 1999.	10 200 EEK

Preparation of materials on regional local history

Output	Budget
1. Preparatory work for the preparation of materials was performed. The materials will appear in 2001.	200 000 EEK

(f) the right to access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks.

396. According to Article 34 of the Constitution, everyone who is legally in Estonia has the right to freedom of movement and to choice of residence. Everybody has access to places and services intended for use by the general public.

397. The Local Government Organisation Act allows local governments to establish regulations of public order to guarantee public order, clean neighbourhood and safety of people.

398. Pärnu city regulations can be mentioned as an example. The regulations are valid on the administrative territory of the city of Pärnu in public places and in specific cases also on private territories, possessions, buildings and facilities, and observing of the regulations is compulsory for everyone. A public place is every territory, building or room that has been given into public use or which in fact is publicly used, for example streets, buildings, parks, restaurants, shops, businesses, stairways of residential buildings, etc. As to restaurants, cafes and other public places, everyone has free access to them. The regulations prohibit, for example, indecent expressions, making noise, or other acts infringing other people's peace and security or acts degrading human dignity. Persons violating the rules of behaviour established by the regulation will be held liable in accordance with the Code of Administrative Offences. Public maintenance is organised by the city government whose relevant agencies are required to ensure with their activities that public places and territories in municipal ownership are kept in order.

Article 6

399. The Constitution stipulates that everyone has the right to the protection of the state and of the law. The Estonian state shall also protect its citizens abroad. The law shall protect everyone from the arbitrary exercise of state authority (Article 13). The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, and of local governments (Article 14). Everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional. The courts shall observe the Constitution and shall declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided by the Constitution or which is otherwise in conflict with the Constitution (Article 15). Everyone has the right to compensation for moral and material damage caused by the unlawful action of any person (Article 25). Courts and administrative authorities are obliged to take into account the principle of equality before the law of all persons.

400. Legislative protection against discrimination is described in more detail under Article 2 of this Report.

401. Justice is administered solely by the courts. The courts are independent and administer justice in accordance with the Constitution and the laws (Article 146 of the Constitution). The Estonian court system is governed by Chapter 13 of the Constitution as well as the Courts Act and the Status of Judges Act.

402. In courts of first instance and courts of appeal where more than one judge administers justice, civil, criminal and administrative matters shall be divided between judges and panels at random, taking into account the specialisation of judges if necessary. The procedure for the division of matters shall be approved by the general meeting of judges of the corresponding court.

403. All courts are competent to deal with questions of human rights. The Constitution states that in a court proceeding, the court will leave unapplied any law or other legislation that is in conflict with the Constitution. The Supreme Court will declare invalid any law or other legislation that is in conflict with the provisions and spirit of the Constitution (Article 152 of the Constitution). Provisions of the CERD can be directly invoked before the courts or other institutions.

404. Court of appeal will review the decisions of county, city and administrative courts by way of appeal proceedings. At least three judges will participate in the hearing of matters by way of appeal proceedings in the sessions of Chambers of courts of appeal. The chairman of the court of appeal has the right to include county, city or administrative court judges of the same circuit who have not participated in the hearing of the matter in the first instance.

405. At least three judges will participate in the hearing of matters by way of cassation proceedings in the sessions of Chambers of the Supreme Court. The Supreme Court will review court decisions by way of cassation proceedings. In the cases and pursuant to the procedure provided by law, the Supreme Court will hear petitions for review filed against court decisions and will correct court errors. The Supreme Court is also the court of constitutional review.

406. In 1999, the Riigikogu passed the Code of Administrative Court Procedure that provides the competence of administrative courts, the procedure for recourse to administrative courts and the administrative court procedure. The Code of Administrative Court Procedure entered into force in January 2000.

407. Administrative courts include separately formed administrative courts and the administrative chambers of the courts of appeal and the Supreme Court in hearings of administrative matters.

The following fall within the competence of administrative courts:

- 1) adjudication of disputes in public law;
- 2) grant of permission to take administrative measures in the cases provided by law;
- 3) adjudication of other matters which are placed within the competence of administrative courts by law.

408. Administrative acts against which an action or protest may be filed with an administrative court are the orders, directives, resolutions, precepts or other legislation that regulate individual cases in public law relationships, issued by agencies, officials or other persons who perform administrative functions in public law. Public law contracts that regulate public law relationships are also deemed to be administrative acts. Measures against which an action or protest may be filed with an administrative court are activities, omissions or delays in public law relationships by agencies, officials or other persons who perform administrative functions in public law.

409. A person who finds that his or her rights have been violated or his or her freedoms have been restricted by an administrative act or measure has the right to file an action with an administrative court. An action for the establishment of the existence or absence of a public law relationship or the unlawfulness of an administrative act or measure may be filed by a person who has legitimate interest in the matter. A protest against an administrative act or measure may be filed with an administrative court by an agency or official to whom the corresponding right is granted by law. An association of persons, including an association that is not a legal person, may file an action with an administrative court in the interests of the members of the association or other persons if the corresponding right is granted to the association by law.

410. There is a register of court decisions with the Supreme Court to collect decisions of circuit courts and the Supreme Court, to systematise them and make them accessible for the public. The register of court decisions is maintained and the information in it is processed by the Supreme Court.

Information to the register is submitted by:

- 1) the Supreme Court for the decisions of the Supreme Court;
- 2) circuit courts for the decisions of circuit courts.

411. Since 2001, there is a database of the statistics and decisions of the first and second instance courts in the Ministry of Justice. The function of the database is to:

- 1) provide up-to-date statistical court information for the public, courts and other state agencies;
- 2) publish pursuant to the requirements of the Public Information Act the court decisions that have entered into force;

3) create preconditions for establishing uniform court practice.

412. The Riigikogu is proceeding the Draft Constitutional Review Court Procedure Act that provides the competence of the Supreme Court as the court of constitutional review, the procedure for recourse to the court and the court procedure.

413. According to the Draft Act, the Supreme Court:

- 1) adjudicates actions to review the conformity of legislation of with the Constitution;
- 2) adjudicates actions to review the conformity of an international agreement with the Constitution;
- 3) adjudicates actions and complaints against the decisions of the Riigikogu;
- 4) adjudicates complaints against the decisions of the Board of the Riigikogu;
- 5) adjudicates complaints against the decisions of the President of the Republic;
- 6) adjudicates actions to declare a member of the Riigikogu, the President of the Republic, the Legal Chancellor or the State Auditor as permanently incapable of exercising his or her duties;
- 7) adjudicates actions to terminate the powers of a member of the Riigikogu;
- 8) decides granting a consent to the Chairman of the Riigikogu in the capacity of the President of the Republic to call extraordinary elections or refuse to proclaim an Act.
- 9) adjudicates actions for terminating the activities of a political party;
- 10) adjudicates complaints against the decisions and acts of the electoral committee.

414. Pursuant to the above Draft Act, the Supreme Court reviews the conformity of legislation or international agreement with the Constitution on the basis of a justified application, court decision or ruling. Applications to the Supreme Court may be submitted by the President of the Republic, the Legal Chancellor and local government council. A court commences proceedings by delivering of a court decision or ruling to the Supreme Court.

In adjudicating the case, the Supreme Court is not bound by the justifications given in the application, court decision or ruling. In adjudicating the matter on the basis of a court decision or ruling, the Supreme Court may declare to be void or unconstitutional any legislation, international agreement or their provision that is relevant in solving the case. Thereby, the Supreme Court will not adjudicate legal disputes that should be settled in accordance with the provisions of court procedure applicable in civil, criminal or administrative offences.

415. Pursuant to the Draft Act, the Supreme Court in adjudicating a case may:

- 1) declare legislation that has not entered into force or a part thereof as unconstitutional;
- 2) declare legislation that has entered into force or a part thereof as void;
- 3) declare an international agreement that has or has not entered into force or a part thereof as unconstitutional;
- 4) annul the decision of the Riigikogu to put a draft law or other national issue on a referendum;
- 5) declare that the disputed legislation or international agreement was unconstitutional at the time when the application for review was made;
- 6) reject the application.

416. If a person finds that a decision of the Riigikogu, Board of the Riigikogu or the President of the Republic violates his or her rights, he or she has the right to file a complaint to the Supreme Court during ten days from the date when the decision entered into force. If during the review of a complaint filed against a decision of the Riigikogu, Board of the Riigikogu or the President of the Republic the Court has a justified doubt with regard to the constitutionality of the relevant legislative act or international agreement, the Court will make a ruling to renew the proceedings. In adjudicating the matter, the Supreme Court may:

- 1) annul the decision of the Riigikogu, Board of the Riigikogu or the President of the Republic or a part thereof;
- 2) reject a complaint.

The right to recourse to other institutions

417. Pursuant to the Constitution, the guarantee of rights and freedoms of members of society is the duty of the legislative, executive and judicial powers, and of local governments. These three powers have to guarantee equal treatment of all members of society in accordance with generally recognised principles of democracy. Everyone whose rights and freedoms are violated has the right to the protection of the state.

418. One of the constitutional institutions who can help people in this issue is the Legal Chancellor. Pursuant to the Legal Chancellor Act, everyone has the right of recourse to the Legal Chancellor to supervise the activities of state agencies, including the guarantee of the constitutional rights and freedoms of persons.

419. The Legal Chancellor proceeds the cases where the applicant either personally or through his or her representative refers to a state agency whose activities according to the applicant have infringed his or her fundamental rights. Such a petition may be filed by everyone. It is important that the violation is related to the person of the applicant. It is only possible to review a petition that shows clearly how the rights were violated.

420. The Legal Chancellor may commence proceedings to control the activities of a state agency also on his or her own initiative if on the basis of information obtained beforehand there is reason to believe that constitutional rights or freedoms have been violated in a state agency. One such source of information is the media. It has become a rule that the Legal Chancellor does not fail to notice information published in the media about possible violations of persons' rights. Special attention is paid to accusations against the police, prosecutor's office, prisons, customs authorities, border guard or the Citizenship and Migration Board or other state agencies. The Legal Chancellor pays close attention to the concerns of persons who cannot themselves sufficiently stand for their rights or whose freedom is limited. These are children, persons in care homes and psychiatric hospitals, prisoners, conscripts. Therefore, the Legal Chancellor and his advisers have a special programme to visit children's homes, care homes, psychiatric hospitals, prisons, military units in order to verify on the spot the situation of guaranteeing fundamental rights and freedoms, to talk to persons in these institutions and if necessary to commence review proceedings. Intervention of the Legal Chancellor has helped to stop violations and officials who were found guilty have received their due punishments.

421. In the majority, the petitions sent to the Legal Chancellor contain not only complaints against state agencies and their officials. Most petitions are applications for assistance to change a court decision, to assess the activities of legal persons in private law and the activities of local governments, to explain the content of legal norms and relationships between the norms and other applications in issues in which the Legal Chancellor can only give explanations and advice. Thus, in this respect the Legal Chancellor fulfils the role of a legal counsellor and assistant. Such applications made up 58% of all written applications in 1999 and 64% of all written applications according to the data for the first nine months of 2000. In 1999, petitions for the review of the activities of state agencies and guaranteeing of fundamental rights and freedoms of persons made up 18% of all the applications. In 2000, the proportion of these applications had grown to 25%. The applications also ask for review of the activities of boards, inspectorates, county governments and other regional state bodies and their officials.

422. Besides illegal behaviour or offences, the Legal Chancellor also analyses the cases of misadministration that do not necessarily constitute illegal behaviour. Misadministration means ignoring of good administrative practice and good conduct, failure to perform a work, carelessness, unjustified delay, negligence, failure to comply with procedural rules, impolite behaviour, dishonesty, incompetence, misinforming, and several other similar situations.

423. The following example can be brought regarding the work of the Legal Chancellor. A person turned to the Legal Chancellor in March 2001 who was not satisfied with the decision not to extend his residence permit with the period stipulated by the government regulation "Procedure for the Application for Issue, Extension and Revocation of Residence and Work Permits". After the intervention by the Legal Chancellor, the residence permit was issued and apology for the delay was presented to the applicant.

424. Written and oral applications from persons

	2000	1999	1998	1997	1996	1995	1994	1993
Individual applications								
Complaints	694	716	386	325	356	289	300	108
Acceptance	596	481	324	252	322	356	167	80
Total	1263	1197	710	577	678	645	467	188
Institutional complaints	332	333	323	313	284	228	319	76
<u>Total</u>	<u>1595</u>	<u>1530</u>	<u>1033</u>	<u>890</u>	<u>962</u>	<u>873</u>	<u>786</u>	<u>264</u>

425. Estonia has also acceded to the European Convention on Human Rights on the basis of which people have the right of recourse to the European Court of Human Rights. Estonia has also acceded to the optional protocol to the International Covenant on Civil and Political Rights offering a mechanism for submitting of complaints. The

competence of the Human Rights Committee formed on the basis of the Covenant includes receiving of complaints concerning the violation of rights contained in the Covenant. The Covenant and its optional protocol entered into force with respect of Estonia in 1992. As at 1 January 2001, there is no information about the complaints against Estonia.

Article 7

Education and teaching

426. The Education Act, which is the basis of Estonian system of education, establishes the following founding principles of education: recognition of values common to all humanity and of national values, and the freedom of personality, religion and conscience. One of the aims of education is to create favourable conditions for the development of personality, family, Estonian nation, as well as national minorities, and the economic, political and cultural life and environmental protection of Estonia within the context of world economy and culture (Article 2).

427. Pursuant to the aforesaid the national curriculum has been worked out emphasising the importance of promoting tolerance and understanding.

428. General aims and principles of school education are established by the national curriculum for Estonian basic and secondary education, approved by a regulation of the Government. Pursuant to this act and taking into account their peculiarities and development trends, each school develops its own curriculum. The national curriculum establishes the basic task of a general education school as follows: to assist in the development of a personality capable of coping with his or her life and work, who develops himself or herself and contributes to the development of the society, determines himself or herself as a member of one's nation, as a citizen, person who shares responsibility for the future of Europe and the world, who respects himself or herself and others, his or her own and other peoples' cultures, who observes the law and principles of democracy, proceeds from universal moral convictions, etc (Chapter II). Chapter III of the national curriculum defines humanism, democracy, patriotism and internationality as the principles of the curriculum. Under this heading the following has been specifically pointed out: "In inter-personal relations tolerance towards different people is valued and violence is avoided. Co-operation skills are developed, and sensitivity and understanding towards special needs of others," and "... the national curriculum values Estonian national identity, culture and traditions, the identity aspirations and cultivation of culture of Estonians and other ethnic groups living in Estonia...".

429. One of the subjects to be taught pursuant to the subject plan in basic and upper secondary schools is the anthropology and the civics, which aspire, *inter alia*, to help the pupils to value the principles of democracy, human and civil rights, to develop one's political culture. In addition to learning about the traditions and holidays of Estonians, pupils of the first three grades learn about the traditions of national minorities, other countries and peoples, neighbouring countries, Estonia's position among other states. By the end of the third grade, a pupil should realise that people and the traditions of different nations may vary.

430. Certain changes in regulation have occurred in the Basic and Upper Secondary Schools Act in connection with the language of instruction at schools since the year 2000.

431. With the decision of the owner of a school, any language may be the language of instruction at a basic school (if a local government council or, in the case of a public school, the Minister of Education have made the relevant decision). It is also possible to open a school that has a language of instruction different than the general language of instruction. Language of instruction is defined as a language in which at least 60% of the curriculum is taught. Thus, in an Estonian-language upper secondary school it is possible to study subjects to the extent of 40% of the total amount of lessons also in Russian or any other foreign language.

432. The act stipulates that in 2007 a transition to the Estonian-language upper secondary school will begin. A survey carried out at the University of Tartu shows that against the Estonian-language upper secondary school are teachers, pupils, their parents; students studying to become teachers support instruction in the mother tongue at the elementary school and a possibility to study in two languages in the final level of the basic school.

433. The possibility to open a class with instruction in the mother tongue or a class with mother tongue as a subject has been used by Belorussians and Ukrainians, but there have not been enough interested parents to develop such education and therefore the initiatives have died out in a couple of years. At present, it is considered important to develop a system for supporting Sunday schools.

434. In the framework of the Phare Tempus project *Intercultural Competence in EU Training Modules*, training in intercultural communication for education workers, immigration officials and private sector employees was planned and implemented. A six-day training course was carried out for educational workers in autumn 2000 in the framework of the project – 20 teachers and education officials participated in the training. The aim of the training was to provide a possibly wide-ranging introduction to the topic "Intercultural communication in society and at school". The experience and feedback will enable to identify better the need for training and is also a basis for drawing up a concrete training plan. In cooperation with the project, at the request of the Ministry of Education training plans to promote the topic of the multicultural school were developed. After testing, the plans and the training material that has been prepared will be used as a basis by organisers of teacher education and further training for teachers.

Culture

435. The state cultural policy regarding national minorities has recently been reflected in "The Fundamentals of the Estonian Cultural Policy", adopted by a decision of the *Riigikogu* of 16 September 1998. The document states that decisions pertaining to cultural policy and allocation of funds shall be based, *inter alia*, on the following principles:

- Every member of society, regardless of his or her sex, ethnic origin and residence has equal rights to participate in the cultural life;
- Estonian State will promote the activities of national minorities in the field of their national culture, as well as cultural contacts with their ethnic homeland.

436. Since 1997, there is a Cultural Council of National Minorities under the Ministry of Culture, which participates in decision-making concerning support to cultural endeavours of national minorities, and in co-ordinating their cultural life and activities.

437. Ministry of Culture has provided financial support to the cultural societies of national minorities since 1991, later on other sources of financing, such as Bureau of Minister dealing with Ethnic Affairs, Integration Foundation, local governments etc., have also provided financial support.

438. Cultural societies of ethnic minorities have received significant financial and material support, including 2 485 000 EEK from the State Budget and 420 000 EEK from foreign donors in 2000. In addition to funds of the State Programme in 2000, local governments have stepped up their support to cultural and educational activities of ethnic minorities. For example, Tallinn City Government has allocated 5 mln EEK in 2000 to support cultural societies of ethnic minorities. In 2001 the total amount of financial support to the cultural societies of national minorities was: 1 526 000 EEK (119 projects, including 61 projects from Russian societies and associations, 9 from the Ukrainian, 8 from Byelorussian, 41 from other societies and associations.

Support to projects of national cultural societies, art collectives and Sunday schools:

Result	Budget
1. 89 projects submitted by national cultural societies, art collectives and Sunday schools were supported, including: ✓ 43 from Russian societies and art collectives ✓ 8 from Ukrainian societies ✓ 6 from Belorussian societies ✓ 32 from other ethnic minorities	1 540 000 EEK (Ministry of Culture)
2. On 22 February 2000, in the hall of the Ministry of Education representatives of the Estonian Association of Nationalities and national cultural societies in Estonia who are its members signed the agreements by which the Association will support the activities of Sunday schools of national societies with the money allocated from the budget of the Ministry of Education in 1999.	50 000 EEK (Ministry of Education)
3. 24 projects were supported that are aimed at preserving and familiarising one's national culture through exhibitions, concerts, festivals, internet sites, books, etc.	663 300 EEK (Integration Foundation)
4. In the framework of two project competitions, the activities of 27 projects were supported. 15 projects were related to organising of common events of cultural societies, 4 projects to activities of Sunday schools,	545 000 EEK (Subprogram Multi 1)

in the framework of 5 projects one dictionary and four different publications to familiarise the activities of cultural societies will be published, within 2 projects an internet site for two cultural societies was created, the aim of one supported project was the procurement of a national instrument <i>kurai</i> .	
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439. All committees that make decisions of distributing money for the activities of societies of national minorities include people whose mother tongue is other than Estonian and who represent different institutions dealing with national minorities. For example, the committee of the Ministry of Culture includes representatives of the Riigikogu Cultural Committee, the bureau of the Minister, President's Roundtable, Integration Foundation. The director of the Russian Cultural Centre serves on the same committee.

Information

440. In the field of mass media, within the integration framework a large-scale media campaign "Integrating Estonia" was launched in August 1999 with a total budget of 2.5 mln EEK. In the framework of the media campaign, public advertisement campaigns "Lots of great people" and "Interest" are launched, integration-related TV series "Estonia on the air" are produced, an integration-oriented Russian language insert "Istoki" of the newspaper "Põhjarannik" is published, etc. As the development of media campaign has indicated, media enterprises are playing an increasing role in funding and promoting integration-related activities in mass media.

441. According to the Broadcasting Act, the public-service radio and TV broadcasters should produce "mainly programmes dealing with information, culture, education and entertainment". One channel of the Estonian Radio is mostly devoted to the transmission of classical music. Of the total transmission time, 1.8% of the nationwide TV programmes and 13.1% of the local and regional TV programmes were, in 1998, classified as cultural programmes. For the state-owned Estonian Radio, the corresponding figure was 8.3% and for private radio broadcasters 2.8%. Estonian Radio transmits different programmes also in minority languages.

442. Russian-language channel *Raadio 4* of the Estonian Radio broadcasts in addition to its programme in Russian also several programmes in other languages, such as Armenian, Ukrainian and Belorussian. The main task of *Raadio 4* is to inform the non-Estonian speaking population about the Estonian political environment, to familiarise Estonian history, culture, literature, music, to generate interest in the learning of Estonian and to support aspirations of national groups to preserve their identity, especially in the case of the younger generation.

443. In 2000, there were 109 officially registered newspapers published in Estonia, including 82 in Estonian and 956 periodicals, including 778 in Estonian. There were 16 daily newspapers in 2000, including 12 in Estonian. The only publishing house remaining in state property is *Perioodika*, which publishes 12 different cultural and educational periodicals.

444. In 2000, one public-service broadcaster *Eesti Raadio (Estonian Radio)* and 28 commercial broadcasters were operating in Estonia: 12 of them on the basis of a local broadcasting licence, 15 on the basis of a regional licence and 1 is operating on the basis of an international licence. The total duration of radio broadcasting in Estonian was 67.1% and in Russian 21.1%.

445. There is one public-service broadcaster *Eesti Televisioon (Estonian Television)* and 4 commercial TV stations in Estonia, one of them operating on a local licence and 4 on a national licence, in addition to this 5 cable TV licences have been issued. The total duration of broadcasting in Russian was 5.5% and subtitled in Russian 1.4%.

446. In order to protect the freedom of press and to deal with ethics of the media, the Estonian Press Council was set up by the Estonian Newspaper Association in 1991. In April 1997, several media organizations decided to reorganize the EPC on a wider basis, i.e. a non-profit organization was founded on the grounds of private agreement, made by the Newspaper Association, the Association of Broadcasters, the Journalists' Union, the Union of Media Educators and the Consumers' Union. At present, also the Network of Estonian Non-Profit Organizations, the Estonian Council of Churches and the Baltic News Service have become the members of the non-profit organisation.

The aims of the non-profit organisation are as follows:

- to protect the freedom of press
- to examine complaints about print media (and broadcasting) from the aspect of media ethics
- to support the development of journalists' professional skills (including ethics) and adherence to the good tradition of journalism.

447. The EPC participated in creating the national Code of Ethics. The Code was introduced in December 1997 by the Estonian Newspaper Association, the Association of Estonian Broadcasters and the EPC. Before that adjudications were made on the basis of international professional tradition and according to the best knowledge of the members of the EPC. At present, the Code provides a basis for assessing the cases. But as it does not cover all possible cases, the EPC refers to the body of cases already considered. The EPC is mainly financed by the membership fees. Some projects have been financed by foundations. The NGO employs a part-time assistant, the members work on a voluntary basis.

448. The EPC meets once a month. The adjudications are made independently of the member organisations. In year 2000, the EPC received 37 complaints of which 33 were concluded. 13 cases were upheld, 13 dismissed, and 7 rejected.

449. The media plays an important role in fighting with racism and in promoting tolerance. An example is a case where the media reacted strongly to the attitude of the owners of Tallinn Bikers Pub towards black persons. In May 2001, there was a sign on the door of the pub saying "No entry with a bike, tie or Negro". After some time, the sign was removed but a new sign appeared depicting a dirty man crossed out with a red line. On the order of the police, the latter was also removed. The police demanded an explanation from the owners concerning the incidents where in one case it was refused to let a man with his black wife enter the pub and another case where the bartender refused to serve a black man referring to the rules of the pub that prohibit to serve coloured people. Later, the representative of the owners denied

having displayed any discriminating signs but as there was sufficient evidence and also based on the articles published in the media a criminal case was brought against the owners of the Bikers Pub pursuant to Article 72¹ of the Criminal Code that stipulates imposing a fine or detention for directly or indirectly restricting an individual's rights or granting him or her direct or indirect preferences on the basis of his or her nationality, race, colour, sex, language, origin, religion, political or other conviction, financial or social status or other circumstances. At the end of 2001, the criminal case was still pending.

Publicity

450. With the order of the Government of the Republic, writing of reports is divided between different ministries. Mainly the Ministry of Social Affairs, the Ministry of Justice and the Ministry of Foreign Affairs are responsible for writing the reports. In order to gather information, the ministries cooperate closely with other state agencies and bodies. There have been meetings between government officials from different ministries about the reporting system. There have also been different training sessions on writing the reports. After a report is completed it is also made public in the Internet.

451. The first CERD Report is available for everyone at the homepage of the Ministry of Foreign Affairs at <http://www.vm.ee>. The CERD Committee's concluding observations on Estonia have also been made available at the homepage.

Availability in local languages

452. Laws for ratifying and denouncing international treaties and international treaties themselves are published in Part II of the *Riigi Teataja* (the State Gazette), which is an official publication of the Republic of Estonia.

453. Distribution of the the *Riigi Teataja* publication is organised by the publisher on the basis of subscriptions and by sale of single issues through the establishments for distributing media publications. The subscription price and price for single issue of the *Riigi Teataja* is established by the Secretary of State taking into account the expenses made for the publication and distribution.

454. For use of the electronic database of the *Riigi Teataja*, the relevant address of the database is published in the *Riigi Teataja* providing access to published texts and user information. In order to guarantee availability of the *Riigi Teataja*, rural municipalities and city governments, the Estonian National Library and public libraries are supplied with the *Riigi Teataja* free of charge. The relevant costs are covered from the state budget. Everyone has the right to use free of charge the issues of the *Riigi Teataja* available in the Estonian National Library and public libraries, rural municipalities and city governments, and to use the electronic database of the *Riigi Teataja* available through computer network.

455. Texts of the laws are also available via different legal databases on the Internet. The texts of some laws are also available in Russian and English.

456. The National Library fulfils the function of the parliamentary library whose tasks are to provide information services to the parliament, government and other constitutional institutions. For this purpose legal, economic and political information is gathered and databases are prepared. Nine international organisations have granted the library the status of a depot collection. In 1995, the Council of Europe Information and Documentation Centre was opened in the building of the National Library, followed in 1998 by the opening of the European Union Information Centre.

457. Several non-governmental organisations are also involved in distributing of information and informing of the public. The most important of them are the President of the Republic's Roundtable of National Minorities, the Legal Information Centre for Human Rights, the Institute of Human Rights, Jaan Tõnisson Institute and others.

Legal acts (in order of appearance)

1. Constitution of the Republic of Estonia (RT 1992, 26, 349)
2. Advertising Act (RT I 1997, 52, 853)
3. Wages Act (RT I 1994, 11, 154; 2000, 40, 248)
4. Employment Contracts Act (RT 1992, 15/16, 241)
5. Employment Services Act (RT I 2000, 57, 370)
6. Criminal Code (RT I 1999, 38, 485)
7. Code of Criminal Procedure (RT I 2000, 56, 369)
8. Code of Civil Court Procedure (RT I 1998, 43-45, 666)
9. Administrative Court Procedure Act (RT I 1999, 31, 425)
10. State Liability Act (RT I 2001, 47, 260)
11. General Principles of the Civil Code Act (RT I 1994, 53, 889)
12. Act for the Compensation of Damage Caused to the Person by the State through Unfounded Deprivation of Liberty (RT I 1997, 48, 775)
13. State Compensation of Victims of Crime Act (RT I 2001, 12, 50)
14. Public Assemblies Act (RT I 1997, 30, 472)
15. Code of Administrative Offences (RT I 2001, 74, 453)
16. Non-Profit Associations Act (RT I 1998, 96, 1515)
17. Public Service Act (RT I 1999, 7, 112)
18. Employees Disciplinary Punishments Act (RT I 1993, 26, 441)
19. Courts Act (RT 1991, 38, 472; 2000, 35, 219)
20. Legal Chancellor Act (RT I 1999, 29, 406)
21. Referendum Act (RT I 1994, 41, 659)
22. Riigikogu Election Act (RT I 1998, 105, 1743)
23. Local Government Council Election Act (RT I 1999, 60, 618)
24. Language Act (RT I 1995 23, 334; 2000, 51, 326)
25. Local Government Organization Act (RT I 1999, 82, 755)
26. Wartime National Defence Act (RT I 1994, 69, 1194)
27. Aliens Act (RT I 1999, 50, 548)
28. Obligation to Leave and Prohibition on Entry Act (RT I 1998, 98/99, 1575)
29. Refugees Act (RT I 1997, 19, 306)
30. Citizenship Act (RT I 1995, 12, 122; 2000, 51, 323)
31. Family Act (RT I 1994, 75, 1326)
32. Law of Property Act (RT I 1999, 44, 509)
33. Restrictions on Transfer of Immovable Property Ownership to Aliens, Foreign States and Legal Persons Act (RT I 1996, 39, 776)
34. Weapons Act (RT I 2001, 65, 377)
35. Government of the Republic regulation No. 132 of 8 July 1997 on approving the procedure for granting and repayment of student loans and establishing the preferences for the redemption of loans (RT I 1997, 54, 860)
36. Succession Act (RT I 1996, 38, 752)
37. Churches and Congregations Act (RT I 1993, 30, 510)
38. Broadcasting Act (RT I 1994, 42, 680)
39. Commercial Code (RT I 1998, 91/93, 1500)
40. Social Protection of the Unemployed Act (RT I 2000, 57, 371)
41. Unemployment Insurance Act (RT I 2001, 59, 359)
42. Trade Unions Act (RT I 2000, 57, 372)
43. Dwelling Act (RT I 1998, 71, 1199)

44. Social Welfare Act (RT I 2001, 98, 617)
45. State Pension Insurance Act (RT I 2001, 9, 42)
46. Superannuated Pensions Act (RT 1992, 21, 294)
47. Old-Age Pensions Under Favourable Conditions Act (RT 1992, 21, 292)
48. Healthcare Act (RT I 1994, 10, 133)
49. Health Insurance Act (RT I 1999, 7, 113)
50. State Family Benefits Act (RT I 1997, 42, 676; 2000, 102, 668)
51. Adult Training Act (RT I 1998, 71, 1200)
52. Vocational Educational Institutions Act (RT I 2001, 68, 406)
53. Applied Higher Education Institution Act (RT I 1998, 61, 980)
54. Income Tax Act (RT I 2001, 11, 49)
55. National Minorities Cultural Autonomy Act (RT I 1993, 71, 1001)
56. Private Schools Act (RT I 1998, 57, 859)
57. Hobby Schools Act (RT I 1995, 58, 1004)
58. Status of Judges Act (RT 1991, 38, 473)
59. Education Act (RT 1992, 12, 192)