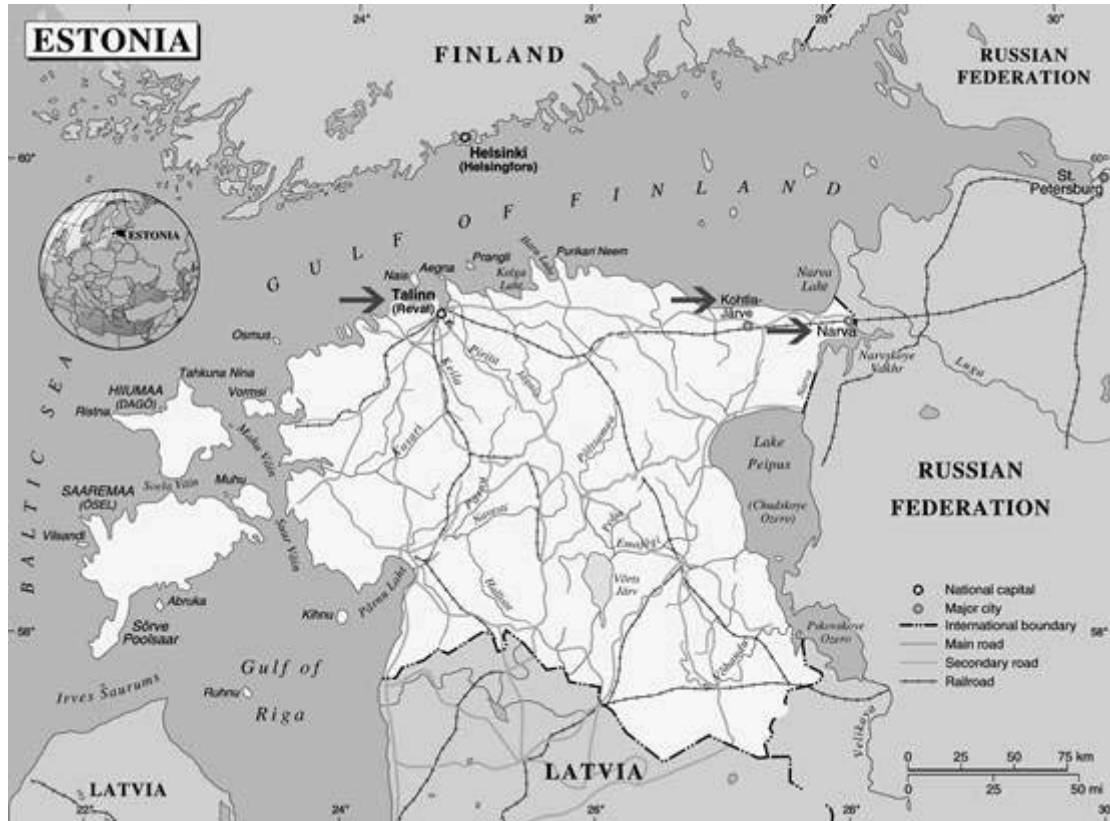


Estonia

Estonia is situated in north-eastern Europe, north of Latvia, west of the Russian Federation, and south of Finland. Estonia has been a member of the European Union since 2004.



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Abbreviations

UN – United Nations

EU – European Union

CoE – Council of Europe

ICCPR - International Covenant on Civil and Political Rights.

ICESCR - International Covenant on Economic, Social and Cultural Rights.

ICERD - International Convention on the Elimination of All Forms of Racial Discrimination.

CRC- Convention on the Rights of the Child.

ECHR - Convention for the Protection of Human Rights and Fundamental Freedoms

ESC - European Social Charter.

FCPNM - Framework Convention for the Protection of National Minorities

ECRML - European Charter for Regional or Minority Languages

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Estonia

Linguistic minorities in Estonia: Discrimination must end

1. Overview

Estonia has a sizeable Russian-speaking linguistic minority which constitutes approximately a third of the population. Persons belonging to this minority enjoy very limited linguistic and minority rights, and often find themselves *de facto* excluded from the labour market and educational system through a system of rigorous language and citizenship requirements for employment and limited possibilities of studying in minority languages in higher education. Such comprehensive and restrictive citizenship requirements for employment both in the public and private sector, together with Estonia's failure to effectively fulfill several linguistic and educational rights, have led to a situation in which there are disproportionately high levels of unemployment among the Russian-speaking linguistic minority. This in turn has further contributed to social exclusion and vulnerability to other human rights abuses. In consequence, many from this group are effectively impeded from the full enjoyment of their economic, social and cultural rights (ESC rights).

Although some significant steps have been taken in recent years by the Estonian authorities, Amnesty International believes that the current policies fail to constitute a coherent framework within which these ESC rights can be guaranteed for persons belonging to the Russian-speaking linguistic minority. Amnesty International is therefore calling on the Estonian authorities to remove barriers to the full and effective enjoyment of ESC rights.

As part of this process of removing barriers, Amnesty International urges the Estonian authorities to become more proactive in finding pragmatic and needs-based solutions to policies towards minorities. This would, for example, involve Estonia revising its current definition of what constitutes a national minority, which currently leaves the majority of persons who do actually belong to a minority without any minority rights or protection. Estonia should also review language requirements for employment in the private sector and review the possibilities to provide affordable, or free, Estonian language teaching for persons belonging to the Russian-speaking linguistic minority. Estonia further needs to consider more proactive ways of combating unemployment amongst minority communities and legal and practical ways of including minorities into mainstream Estonian society. Current legislative changes to the educational system also need to be reviewed to ensure that they do not have an adverse effect on some persons belonging to a minority and that they do not lead to further social exclusion of already vulnerable groups. Detailed recommendations are given at the end of this report.

Ethnic groups in Estonia¹

Estonians	68.6%
Russians	25.7%
Ukrainians	2.1%
Belarusians	1.2%
Finns	0.8%
Tartars	0.2%
Latvians	0.17%
Poles	0.16%
Jews	0.15%
Lithuanians	0.15%
Germans	0.14%
Others	0.68%

1.1 Principle of non-discrimination

The right of every person to be free from discrimination is a fundamental human right in itself. Non-discrimination can also be an effective protective mechanism against human rights violations in other fields. The importance of the principle of non-discrimination to the enjoyment of other human rights is underlined by the fact that it is enshrined in Article 2 of both the UN International Covenant on Civil and Political Rights (ICCPR)² and the UN International Covenant on Economic, Social and Cultural Rights (ICESCR).³ Article 2 of the ICCPR states that “[e]ach State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 1 of the UN International Convention on the Elimination of All Forms of Racial Discrimination (CERD) develops the non-discrimination principle by adding that “‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and

¹ Official statistics as presented on the website of the Ministry of Foreign Affairs on 25 October 2006. See www.vm.ee/estonia/pea_172/kat_399/4305.html.

² International Covenant on Civil and Political Rights (ICCPR) Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entered into force 23 March 1976, in accordance with Article 49. Ratified by Estonia on 21 October 1991.

³ International Covenant on Economic, Social and Cultural Rights (ICESCR), Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entered into force 3 January 1976, in accordance with Article 27. Ratified by Estonia on 21 October 1991.

fundamental freedoms in the political, economic, social, cultural or any other field of public life.”⁴

The principle of non-discrimination is further developed within the international legal framework by General Comment 18 on non-discrimination by the UN Human Rights Committee.⁵ Paragraph 1 of the General Comment outlines that “non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitute a basic and general principle relating to the protection of human rights.”⁶ The General Comment also points out that non-discrimination does not only mean equal treatment, but may also involve affirmative action. To this end, Paragraph 10 states that “the Committee also wishes to point out that the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination...[...]... For example, in a State where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct those conditions. Such action may involve granting for a time to the part of the population concerned certain preferential treatment in specific matters as compared with the rest of the population.”⁷ This last principle means that in situations similar to that in Estonia, the state is required to go beyond equal treatment and may apply preferential treatment to correct inequalities in society.

In the regional European legal framework, discrimination is prohibited in Article 14 of the Council of Europe’s European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)⁸, as well as in Article 1 of Protocol 12 of the ECHR which states that “the enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.”⁹

The principle of non-discrimination is also encoded in several European Union (EU) treaties, including the Treaty of Amsterdam, Article 12 of which states that “any discrimination on grounds of nationality shall be prohibited. The Council, acting in accordance with the procedure referred to in Article 251, may adopt rules designed to prohibit such discrimination.”¹⁰ Article 13 provides for the possibility of the EU to “take appropriate

⁴ Article 1, International Convention on the Elimination of All Forms of Racial Discrimination. Adopted and opened for signature and ratification by General Assembly Resolution 2106 (XX) of 21 December 1965, entered into force 4 January 1969, in accordance with Article 19. Ratified by Estonia on 21 October 1991.

⁵ General Comment 18 on Non-discrimination, Human Rights Committee, 10 November 1989.

⁶ Article 1, General Comment 18 on Non-discrimination, Human Rights Committee, 10 November 1989.

⁷ Article 10, General Comment 18 on Non-discrimination, Human Rights Committee, 10 November 1989.

⁸ Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol 11, Rome, 4 November 1950. Signed by Estonia on 14 May 1993, ratified on 16 April 1996.

⁹ Protocol 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms. Rome, 4 November 2000.

¹⁰ Article 12, Treaty of Amsterdam, Signed 2 October 1997, entry into force 1 May 1999.

action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”.¹¹ The EU Charter on Fundamental Rights provides in Article 20 that “everyone is equal before the law” and in Article 21 that “any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.”¹² Article 22 of the Charter provides that “the Union shall respect cultural, religious and linguistic diversity”.

In 2000, the EU adopted a Council Directive 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.¹³ Article 2(b) of Chapter 1 of the Directive states that “indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons”.¹⁴ The Directive covers several spheres of life, including conditions for access to employment and education. Non-discrimination in employment is further protected in the Council Directive establishing a general framework for equal treatment in employment and occupation.¹⁵

The principle of non-discrimination is thus firmly anchored in international human rights law and standards. Non-discrimination, including temporary preferential treatment of vulnerable and excluded groups, is also a fundamental cornerstone to Amnesty International’s work for and behalf of human rights victims. Non-discrimination will also be a fundamental principle underpinning the organization’s analysis of minority issues in Estonia in this report.

1.2 Methodology and outline of report

This report focuses on barriers to full and effective enjoyment of economic, social and cultural rights for members of the Russian-speaking minority who had become settled in Estonia prior to that country’s independence in 1991. Given this focus, it will not seek to discuss in detail civil and political rights or citizenship requirements and naturalization processes in detail, except where these affect ESC rights. The report is also not intended as a comprehensive overview of issues faced by all persons in Estonia who are not ethnically Estonian, including those of migrant communities who arrived after 1991, or of smaller minority communities such as the Roma community, the Tartar community, the Jewish community or Finno-Ugric communities.

¹¹ Article 13, Treaty of Amsterdam, Signed 2 October 1997, entry into force 1 May 1999.

¹² EU Charter on Fundamental Rights (2000/C 364/01) signed in Nice, 7 December 2000.

¹³ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

¹⁴ Article 2(b), Chapter 1, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

¹⁵ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

As part of field research in Estonia for this report, during 2006 Amnesty International representatives visited the cities of Tallinn (the capital), Narva and Kohtla-Järvi, where they spoke to government authorities, representatives of non-governmental organizations (NGOs) as well as large numbers of members of the public. Amnesty International has also discussed minority issues with both Estonian and foreign academics and representatives of foreign embassies in Estonia.

While some of the interviews conducted by Amnesty International will be referenced in the bibliographical section of this report, many will not as the person(s) concerned have asked to remain anonymous. This was the situation with the members of the Russian-speaking minority who have been directly affected by current minority policies. Those whose stories are included in this report asked to remain anonymous and the names used are not their real ones.

The report is divided into five sections. This first section provides an introduction to the issues of concern and outlines the purpose and scope of the report. It further outlines the methodology and structure of the report.

The second section offers an historical background to the minority issue in Estonia, in order to contextualize Amnesty International's current human rights concerns regarding minorities in Estonia. Section three discusses the respect, protection and fulfillment of minority and language rights in Estonia. This section is also intended as a background to the following two sections, which benefit from an understanding of the limitations on minority languages and rights in Estonia.

The fourth section reviews labour rights. It outlines barriers to employment for persons belonging to the Russian-speaking linguistic minority and analyses Estonia's compliance with international laws and standards regarding labour and the right to work.

Section five contains Amnesty International's recommendations to the Estonian authorities with regards to steps it may take to improve its respect, protection and fulfillment of the full and effective enjoyment of ESC rights for persons belonging to the Russian-speaking linguistic minority in Estonia.

2. Historical background

2.1 Historical context and effects of post-independence citizenship policies on statelessness

Johannes

"I don't mind them, they have a right to live here as well, but they have to understand that this is Estonia now. If they want to live here, be Estonian citizens and work here, they should learn Estonian and learn about Estonian culture. For so long, we have been under Russian influence, forced to learn Russian. It is important that we assert our national identity now in order for our culture and our language, to survive and develop."

Johannes, an ethnic Estonian man in his mid-20s, living in Tallinn.

Estonia, a country which today has approximately 1.3 million residents, was under the control of the Union of Soviet Socialist Republics (USSR) between 1940-41 and 1944-1991. During the Soviet period, there were large migration flows from other parts of the USSR to Estonia. When Estonia gained independence in 1991, almost 40 per cent of its population were not ethnically Estonian.

The largest minority group in Estonia has traditionally been Russians, and Russian-speakers who identify with other nationalities including Ukrainian and Belarusian. According to the 1934 census, minorities made up approximately 12 per cent of the Estonian population, while in the 1989 census 39 per cent of inhabitants were classified as belonging to a minority.¹⁶ Most persons belonging to the Russian-speaking linguistic minority living in Estonia when it gained independence in 1991 had thus arrived during the Soviet period.

In November 1991, following independence from the USSR, Estonia decided that only those who were citizens of Estonia prior to 1940, and their descendants, would automatically be recognized as Estonian citizens. This meant that a large number of Russian-speakers living in Estonia in 1991 did not automatically qualify for citizenship, as they or their families could not claim to have been citizens before 1940. By 1992, as many as 32 per cent of Estonian residents were considered to have 'undetermined' citizenship status¹⁷ (meaning that they were not citizens of Estonia or any other state). In effect, this meant that they were stateless.

¹⁶ *Estonian minority population and non-discrimination*, Legal Information Centre for Human Rights, 2006. p.5.

¹⁷ Estonian Citizenship and Migration Board, March 2003, Tallinn. p.8.

By 2005, 82 per cent of Estonian residents were Estonian citizens, while 10 per cent were stateless and 8 per cent were citizens of other states.¹⁸ Today there are approximately 130,000 stateless persons in Estonia. The reasons why Estonian residents remain stateless vary.



The Second World War and the post-war USSR period is still fresh in many Estonians' minds. © AI

2.2 Current statelessness situation

Tamara

Tamara is a stateless woman in her early twenties. She is stateless and officially defined as a “resident alien”, although she was born in Estonia and has lived her whole life in Estonia. Tamara wants to become an Estonian citizen and has studied for a long time for the civic and language exams that she is required to pass. She says proudly:

¹⁸ *Yearbook 2006*, Estonian Citizenship and Migration Board, Tallinn.

In July this year (2006) I passed the exams. I had to pay 5000 Estonian crowns (EEK, just over 300 euros) for the private school where I studied for the exams. Because I am currently unemployed, I could have never afforded the private school if my mother had not helped me financially. And without the private school I could have never passed the exams.

Having passed her exams, Tamara can get some of her costs reimbursed and will now apply for Estonian citizenship. However, she must also be able to demonstrate that she can support herself in order to be eligible for citizenship. Tamara is unemployed, but as her mother can support her financially she is thus likely to be eligible for citizenship.

Citizenship situation of Estonian population¹⁹

Estonian citizens	82%
Citizens of other states (primarily Russia)	8%
Stateless persons	10%

Those who are stateless in Estonia hold either a permanent residence permit (often referred to as ‘grey passport’ in Estonia) or a temporary residence permit. At the beginning of 2006, 85 per cent of all those holding residence permits held permanent residence permits while the remaining 15 per cent held temporary residence permits. In order to comply with the European Union Council Directive 2003/109/EC of 25 November 2003,²⁰ Estonia introduced the category “long-term resident” in April 2006. Receiving “long-term resident” status entails, among other things, increased possibilities to live and work in other EU Member States. All permanent residents automatically qualify as long-term residents, while temporary residents have to apply for this status. As of 1 June 2007, a test of the Estonian language must be passed in order to acquire the long-term resident status.²¹ Until then there is no language requirement. However, many temporary residents told Amnesty International that they were unaware of this. Amnesty International recommends that the Estonian authorities actively publicize this fact to those temporary residents not already in possession of long-term residency status.

¹⁹ *Yearbook 2006*, Estonian Citizenship and Migration Board, Tallinn.

²⁰ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, Official Journal L 016, 23/01/2004 pp.44-53.

²¹ The language requirement will not apply to individuals below the age of 15 and over the age of 65; individuals who obtained their basic, secondary or higher education in Estonian; adults with limited legal competence; individuals incapable of passing the exam due to their health (although if an individual is capable of passing a certain part of the exam, requirements in this case shall be decided upon by an expert committee as per the procedure for passing the citizenship exam).

The requirements to become a citizen are outlined in the Law on Citizenship (1995).²² According to Article 6, citizenship candidates must pass two exams to become a citizen: a written and oral Estonian language exam and an exam on knowledge of the Estonian Constitution and the Law on Citizenship. One of the main obstacles for stateless persons to acquire Estonian citizenship is their insufficient Estonian language skills.²³ In a report made public in February 2006, the Council of Europe's European Commission against Racism and Intolerance (ECRI) recommended "that the Estonian authorities provide high quality free of charge language lessons to stateless people who wish to sit for the citizenship exam, whether or not they pass the language portion of this exam".²⁴ Amnesty International welcomes the fact that Estonia in 2006, through a state agency named the Non-Estonian Integration Foundation, has announced its intentions to launch a free nationwide preparation course for the citizenship exam. Amnesty International recommends that the course should be widely publicized and the course materials should be accessible to those wishing to attend it as well as being appropriate for the level of Estonian language skills those attending the course possess.

Estonia has certain obligations under international law to prevent statelessness. In particular, under Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, states have an obligation to "guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law"²⁵ particularly in the enjoyment of several fundamental rights including the right to nationality. Article 24 of the ICCPR guarantees that every child "has the right to acquire a nationality".²⁶ Meanwhile, Article 7 of the Convention on the Rights of the Child states that "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality... States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless."²⁷

Amnesty International also notes that Estonia is not party to the Convention on the Reduction of Statelessness²⁸ or the Convention relating to the Status of Stateless Persons.²⁹ In

²² RT I 1995, 12, 122.

²³ This observation is shared by, amongst others, Hallik Klara (ed), *Integration of Estonian Society: Monitoring 2002*, Institute of International and Social Studies, 2002.

²⁴ Third Report on Estonia, ECRI, Adopted on 24 June 2005, made public on 21 February 2006. www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/estonia/estonia_cbc_3.asp#P114_12056.

²⁵ Article 5, International Convention on the Elimination of All Forms of Racial Discrimination.

²⁶ Article 24, ICCPR.

²⁷ Article 7, Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with Article 49.

²⁸ Convention on the Reduction of Statelessness. Adopted on 30 August 1961 by a conference of plenipotentiaries which met in 1959 and reconvened in 1961 in pursuance of General Assembly resolution 896 (IX) of 4 December 1954. Entered into force 13 December 1975, in accordance with Article 18.

order to improve the protection of human rights of stateless persons in Estonia, Amnesty International recommends that Estonia becomes a state party to both these treaties.

²⁹ Convention relating to the Status of Stateless Persons. Adopted on 28 September 1954 by a Conference of Plenipotentiaries convened by Economic and Social Council Resolution 526 A(XVII) of 26 April 1954. Entered into force 6 June 1960, in accordance with Article 39.

3. Minority rights

3.1 Minority situation

Minority population as percentage of total population by city³⁰

Tallinn	46%
Narva	95%
Kohtla-Järve	82%

According to the Statistical Office of Estonia, in 2005 ethnic Estonians made up 68.5 per cent of the Estonian population. Meanwhile, 25.7 per cent were ethnic Russians with the remaining percentages consisting primarily of Belarusians, Ukrainians and Finns.³¹ In total, approximately 430,000 persons in Estonia officially belong to ethnic minorities.³² That number includes persons belonging to the Russian-speaking linguistic minority who are Estonian citizens, persons who are Russian citizens but live in Estonia and persons who are stateless. According to the Law on Cultural Autonomy of National Minorities, in order to be defined as a minority community, members must:

- Be citizens of Estonia;
- Reside in Estonia;
- Have long-term, stable and strong links with Estonia;
- Differ from ethnic Estonians on the basis of their ethnic affiliation, cultural, religious traditions or linguistic characteristics; and
- Be guided by the desire to conserve, by joint efforts their cultural traditions, religion and language, underlying their common identity.³³

Estonia provides a similar definition³⁴ of a national minority in a declaration made at the ratification of the Council of Europe's Framework Convention on National Minorities.³⁵ This definition excludes from the scope of national minority protection substantial parts of

³⁰ *Population and Housing Census*, Statistical Office of Estonia, 2000.

³¹ Website of Statistical Office of Estonia: www.stat.ee.

³² Website of Ministry of Foreign Affairs: www.vm.ee/estonia/kat_399/pea_172/4305.html (24 August 2006).

³³ Law on Cultural Autonomy of National Minorities, 1993.

³⁴ Estonia's declaration states that persons belonging to the Russian-speaking linguistic minority are citizens who reside on the territory of Estonia; maintain longstanding, firm and lasting ties with Estonia; are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics; are motivated by a concern to preserve together their cultural traditions, their religion or their language, which constitute the basis of their common identity.

³⁵ Council of Europe webpage <http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=157&CM=8&DF=08/02/05&CL=EN&VL=1>

the *de facto* linguistic minority, particularly the large numbers belonging to the Russian-speaking minority. Although the Framework Convention on National Minorities does not include a definition of what constitutes a national minority, the objective and purpose of the Convention clearly extend to members of linguistic minorities, meaning that the Russian-speaking minority in Estonia should fall under the scope of the Convention.

3.1.1 Law on Cultural Autonomy of National Minorities

The Law on Cultural Autonomy of National Minorities (Law on Cultural Autonomies) has been in force in Estonia since 1993. The law provides national minorities with the possibility to set up “cultural autonomies”. According to Article 1 and Article 2(2), a cultural autonomy may be founded by Germans, Swedes, Jews or by any other minority consisting of more than 3,000 persons. Those founding a cultural autonomy must qualify as national minority persons in accordance with the strict criteria outlined in the preceding section. This means that non-citizens (including both Russian citizens and stateless persons, together constituting just under 20 per cent of the Estonian population) are not entitled to found a cultural autonomy. The system of cultural autonomies is meant to help support educational and cultural organizations of minority communities. However, the law does not place any positive obligations on the state to fund or support the cultural and educational institutions set up by the cultural autonomies.³⁶ The law thus only provides the framework within which national minorities, as defined by the Estonian state, can pay for their own minority rights. Interest in setting up cultural autonomies has been weak due to the perceived lack of positive measures associated with the law. Only one group, the Ingrian Finns, have set up a cultural autonomy.

The Law on Cultural Autonomies has caused concern from, amongst others, the Advisory Committee on the Framework Convention for the Protection of National Minorities which recommended that Estonia “amend its legislative framework concerning cultural autonomy of national minorities”.³⁷ The European Commission on Racism and Intolerance (ECRI) agreed and in its third report on Estonia recommended that, when drafting new minority legislation, “the Estonian authorities enter into a dialogue with members of minority groups on this subject and take their suggestions and comments into consideration”.³⁸ The UN Committee on the Elimination of Racial Discrimination added the recommendation that the definition of minority under the Law on Cultural Autonomies be amended to include non-citizens, in particular, stateless persons of long-term residence in Estonia.³⁹ Amnesty International considers the Law on Cultural Autonomies of National Minorities to be limited

³⁶ *Non-citizens in Estonia*, Legal Information Centre for Human Rights, 2004, p.42.

³⁷ Second Opinion on Estonia adopted on 24 February 2005, Advisory Committee on the Framework Convention for the Protection of National Minorities, Paragraph 69.

³⁸ Third report on Estonia, European Commission against Racism and Intolerance, adopted 24 June 2005. Paragraph 26.

³⁹ Concluding Observations on Estonia. Committee on the Elimination of Racial Discrimination. Sixty-ninth session 31 July to 18 August 2006. Paragraph 9.

in scope and does not consider it to be *per se* an effective guarantee for minority protection in Estonia.

The current definition under Estonian law of what constitutes a minority excludes a large number of Russian-speakers. As most persons belonging to the Russian-speaking linguistic minority do not have long-standing links with Estonia (most arrived in Estonia after 1940) and many are not citizens, they do not fall within the definition of what constitutes a minority person. Amnesty International considers that the existence of a Russian-speaking minority in Estonia is a question of fact, as determined on the basis of reasonable and objective criteria, as laid out in international laws and standards. Article 27 of the ICCPR, to which Estonia is a state party, recognizes “in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”⁴⁰ Further, the Human Rights Committee has clarified that “[t]he existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria... a State party may not, therefore, restrict the rights under Article 27 to its citizens alone.”⁴¹

Thus, Amnesty International urges the Estonian authorities to re-consider its current definition of what constitutes a national minority to acknowledge the existence of a *de facto* Russian-speaking linguistic minority in Estonia. This definition should enable all those who lived in Estonia before 1991 and their descendants to qualify as persons belonging to the Russian-speaking linguistic minority, regardless of their citizenship status. The recognition of the Russian-speaking minority as a national minority should not be conditional upon the Russian-speaking minority applying for cultural autonomy in accordance with the Law on Cultural Autonomies.

3.2 Language situation

Percentage of the population by city which has Russian as their first language⁴²

Tallinn	43%
Narva	93%
Kohtla-Järve	80%

Most persons belonging to the Russian-speaking linguistic minority in Estonia have Russian as their first language. In certain regions, there is a very high concentration of persons who do

⁴⁰ International Covenant on Civil and Political Rights, Article 27.

⁴¹ Human Rights Committee, General Comment 23: The rights of minorities (Article 27), 8 April 1994. CCPR/C/21/Rev.1/Add.5: § 5.2.

⁴² *Population and Housing Census*, Statistical Office of Estonia, 2000.

not have Estonian as their first language. According to the 2000 census, in Estonia's capital Tallinn, 43 per cent have Russian as their first language. The corresponding figure for Estonia's third largest city, Narva, situated in the north-east of the country, was 93 per cent. In Tallinn, 26 per cent of the population did not consider itself able to speak Estonian, while the corresponding figure for Narva was 83 per cent.⁴³

Percentage of the population by city which speaks Estonian, either as their first language or as a foreign language⁴⁴

Tallinn	74%
Narva	17%
Kohtla-Järve	39%

In accordance with Article 1 of the Law on Language from 1995 and Article 6 of the Estonian Constitution, Estonian is the state language of Estonia. Active steps to protect the status and development of the Estonian language are integral to the government's "Integration of Estonian Society 2000-2007" programme, and even more so in the "Development Strategy of the Estonian Language 2004-2010". In its 2005 Second Opinion on Estonia, the Advisory Committee on the Framework Convention for the Protection of National Minorities recommended Estonia that "make further efforts to ensure that the protection and promotion of the state language is not pursued through an overly regulatory approach and at the expense of the protection of national minorities and their languages."⁴⁵

Despite almost one third of the Estonian population having Russian as its first language, the Russian language does not receive any legal or practical protection in Estonia. In support of protection of linguistic minorities, the Human Rights Committee has, with regards to the ICCPR, stated that:

"The terms used in Article 27 indicate that the persons designed to be protected are those who belong to a group and who share in common a culture, a religion *and/or a language*. Those terms also indicate that the individuals designed to be protected need not be citizens of the State party."⁴⁶ [emphasis added]

The European Charter for Regional or Minority Languages defines a minority language as a language which is "traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State's

⁴³ *Population and Housing Census*, Statistical Office of Estonia, 2000.

⁴⁴ *Population and Housing Census*, Statistical Office of Estonia, 2000.

⁴⁵ Second Opinion on Estonia adopted on 24 February 2005, Advisory Committee on the Framework Convention for the Protection of National Minorities, Paragraph 93.

⁴⁶ Human Rights Committee, General Comment 23: The rights of minorities (Article 27), 8 April 1994. CCPR/C/21/Rev.1/Add.5: § 5.1.

population”.⁴⁷ It provides protection for the rights of linguistic minorities within the fields of education; contacts with judicial authorities, administrative authorities and public service providers and media as well as cultural activities and facilities. However, Estonia is not a state party. Amnesty International therefore urges Estonia to become a state party to the European Charter for Regional and Minority Languages.

3.2.1 Communications with authorities

According to Article 51 of the Estonian Constitution, in localities where at least one-half of the permanent residents belong to a national minority, everyone has the right to receive responses from state agencies, local governments, and their officials in the language of the national minority. While this provision in theory provides some minority language protection, it is worth noting that it only applies to national minorities, i.e. citizens considered to have long-standing ties to Estonia (including Germans, Swedes and Jews), and thus does not apply to a large portion of the Russian-speaking minority population.

An amendment to Article 9 of the Law on Language in 2002 means that it is now theoretically legal to use a “foreign language” in oral communications with officials of state agencies and local government if both parties agree to do so.⁴⁸ However, persons belonging to the Russian-speaking linguistic minority do not have a *right* to communicate with the authorities in Russian or to use Russian as a working language in local authorities even in regions which are predominantly inhabited by persons belonging to the Russian-speaking linguistic minority, such as the north-eastern region of Ida-Virumaa, where the city of Narva is situated. According to Article 10(2) of the Council of Europe’s Framework Convention for the Protection of National Minorities, “in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities”.⁴⁹ In its 2005 Second Opinion on Estonia, the Advisory Committee on the Framework Convention for the Protection of National Minorities recommended that Estonia “ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, have a true and effective possibility to use their minority language in relations with administrative authorities”.⁵⁰ In addition to encouraging Estonia to recognize its *de facto* Russian-speaking minority as a linguistic minority, Amnesty International recommends that the Estonian

⁴⁷ European Charter for Regional or Minority Languages, Article 1(a)(i), <http://conventions.coe.int/treaty/en/Treaties/Html/148.htm>.

⁴⁸ “Foreign language” denotes any language other than the official state language: Estonian.

⁴⁹ Framework Convention for the Protection of National Minorities, Article 10(2)

<http://conventions.coe.int/treaty/en/Treaties/Html/157.htm>. Estonia ratified this convention on 6 January 1997.

⁵⁰ Second Opinion on Estonia adopted on 24 February 2005, Advisory Committee on the Framework Convention for the Protection of National Minorities, Paragraph 96.

authorities allow Russian to be used in communications with the authorities and in local authority meetings in regions and cities where the criteria outlined in Article 10(2) of the Council of Europe's Framework Convention for the Protection of National Minorities are met, and that the authorities revise Article 51 of the Constitution to accordingly.

3.3 Educational rights

3.3.1 International obligations regarding educational rights

The right to education is protected by Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which states that “the States Parties to the present Covenant recognize the right of everyone to education”.⁵¹ The Article further provides, among other things, for primary education to be compulsory and available free to all; for secondary and higher education to be made generally available and accessible to all; and for encouraging fundamental education for those who have not received or completed the whole period of their primary education. In its General Comment on Article 13, the Committee on Economic, Social and Cultural Rights states that “education is both a human right in itself and an indispensable means of realizing other human rights.”⁵² General Comment 13 develops the idea of education as a right which enables an individual to enjoy other rights by stating that “as an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities.”⁵³

The General Comment states that education must be available, accessible, acceptable and adaptable. “Adaptability” is defined as meaning that “education has to be flexible so it can adapt to the needs of changing societies.”⁵⁴ It also outlines that “states parties should adopt varied and innovative approaches to the delivery of secondary education in different social and cultural contexts.”⁵⁵

The Convention on the Rights of the Child similarly guarantees the right to education in Article 28 and obliges state parties to “take measures to encourage regular attendance at schools and the reduction of drop-out rates.”⁵⁶ In the European context, the Council of

⁵¹ Article 13(1), International Covenant on Economic, Social and Cultural Rights (ICESCR), Adopted, by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976.

⁵² General Comment 13 on Article 13 of the ICESCR, UN Doc E/C.12/1999/10, 8 December 1999. Paragraph 1.

⁵³ General Comment 13 on Article 13 of the ICESCR, UN Doc E/C.12/1999/10, 8 December 1999. Paragraph 1.

⁵⁴ General Comment 13 on Article 13 of the ICESCR, UN Doc E/C.12/1999/10, 8 December 1999. Paragraph 6.

⁵⁵ General Comment 13 on Article 13 of the ICESCR, UN Doc E/C.12/1999/10, 8 December 1999. Paragraph 32.

⁵⁶ Article 28(1), Convention on the Rights of the Child.

Europe's Framework Convention for the Protection of National Minorities provides that "the Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority. In this context the Parties shall *inter alia* provide adequate opportunities for teacher training."⁵⁷

3.3.2 Current educational system

Until 1991, it was possible to study in either Estonian or Russian at all levels of education. Following Estonian independence, the possibility of studying in Russian at primary school and secondary school level remained, even if under more limited forms. However, according to Estonian law, Estonian is now the only language of instruction in state-run higher educational institutions.⁵⁸ Higher education in Russian may be undertaken only at private institutes. The percentage of persons from the Russian-speaking minority who are in university education is substantially lower than that of ethnic Estonians.⁵⁹ For example, 27 per cent of all ethnic Estonians who are between 20 and 24 years old are in higher education while the corresponding number for Russian-speakers is 18 per cent. In the age group 25-29 years old the corresponding numbers are nine per cent and five per cent.

3.3.3 Promoting awareness and respect for cultural diversity through education

According to ECRI, "children in Estonian schools are not taught about the different ethnic groups in Estonia and their contribution to society. For example, Estonian history books only contain a few lines about minority groups."⁶⁰ ECRI also notes that "Estonian-speaking and Russian-speaking children evolve in two different socio-cultural environments and seldom meet."⁶¹ ECRI recommended that the Estonian authorities "ensure that school manuals include information on the history and culture of minority groups in Estonia as well as their contribution to Estonian society" and that "the authorities include, as part of the school programme, teaching on the benefits of diversity and living in a multicultural society."⁶²

⁵⁷ Framework Convention for the Protection of National Minorities, Article 12(1)(2)
<http://conventions.coe.int/treaty/en/Treaties/Html/157.htm>.

⁵⁸ Some study groups are, however, allowed to be taught in Russian.

⁵⁹ *Population and Housing Census, Education and Religion IV*, Statistical Office of Estonia, 2002, tables 55, 79 and 80.

⁶⁰ Third report on Estonia, European Commission against Racism and Intolerance, adopted 24 June 2005, Paragraph 56.

⁶¹ Third report on Estonia, European Commission against Racism and Intolerance, adopted 24 June 2005, Paragraph 56.

⁶² Third report on Estonia, European Commission against Racism and Intolerance, adopted 24 June 2005, Paragraph 58.

The Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities has also addressed the issue of cultural diversity in Estonian education by recommending that "further efforts should be made to ensure that adequate multicultural elements are included in school curricula. Estonia should take further steps also to encourage majority pupils to study minority languages."⁶³ The Advisory Committee also recommended Estonia to "further develop two-way contacts between children belonging to the majority and those belonging to a national minority. The importance of such contacts should be reflected in the design and implementation of various models of education, starting at the pre-school level."⁶⁴

Amnesty International urges the Estonian authorities to take concrete measures to promote understanding and awareness of the multi-cultural nature of Estonia's population through education in consideration of the recommendations and standards cited above.

3.3.4 Secondary school reform

Maria

Maria is an ethnic Russian, currently residing in the north-eastern region of Ida-Virumaa, who has lived the majority of her life in Estonia. She has a teenage daughter who was born and has lived her whole life in Estonia.

"My daughter started having her geography classes in Estonian last year. The school said that this was part of their phasing out of Russian as a language of teaching in secondary schools. I would have liked Russian to be the teaching language, but at the same time I want my daughter to go to university, and realize that she needs to speak better Estonian. The only problem is that her Estonian is not good enough to understand everything that she is taught in her geography class. The teacher insists on only speaking Estonian during the class, he says that that is the only way the children will learn all the terminology. He is very nice though, and sometimes he stays after class and helps my daughter and some of the other students who didn't understand everything. But he is not paid to do so and he doesn't always have time to do it. And my daughter gets no other support from the school in the transition from studying in Russian to studying in Estonian. It usually ends up with me having to explain her geography homework to her in Russian to ensure she understands everything. I really want her to learn Estonian so that she can go to university and I guess this language reform in schools will help her to learn Estonian, but without the right resources, she won't be able to study in Estonian. I'll have to explain all of her subjects to her in Russian."

⁶³ Second Opinion on Estonia adopted on 24 February 2005, Advisory Committee on the Framework Convention for the Protection of National Minorities, Paragraph 114.

⁶⁴ Second Opinion on Estonia adopted on 24 February 2005, Advisory Committee on the Framework Convention for the Protection of National Minorities, Paragraph 124.

From 2007, there will be a transition from Russian to Estonian language teaching in schools which previously used Russian as the language of instruction. Eventually, 60 per cent of subjects will be studied in Estonian.⁶⁵ According to the Minister of Population Affairs Paul-Eerik Rummo, it will initially be primarily non-academic subjects such as physical education and arts which will be taught in Estonian and the transition from Russian to Estonian will be gradual.⁶⁶ The Minister of Population Affairs has also stated to Amnesty International that there will be special courses for teachers to support them in teaching in Estonian to non-Estonians.⁶⁷

Concerns have been raised in several quarters regarding the upcoming educational reform. In a report on Estonia published in 2004 by Alvaro Gil Robles, the then Council of Europe Commissioner for Human Rights, concerns were expressed regarding potential adverse effects of the upcoming educational reform:

“Difficulties in learning in their second language might increase the rate of school dropouts and failure in the final exams, which in turn amplifies the difficulties in accessing higher education. It may also carry an increased risk of social exclusion. Emphasis should be placed on analysing the potential risks and on designing programmes to prevent them.”⁶⁸

The Council of Europe’s Advisory Committee on the Framework Convention for the Protection of National Minorities has recommended that Estonia “take further measures to encourage and facilitate access of persons belonging to national minorities to higher educational institutions. In this connection, it is important to ensure that increase in the volume of state language instruction in the secondary education is pursued in a manner that does not harm the quality of education in schools attended by persons belonging to national minorities and thereby limit their possibilities to access higher education.”⁶⁹

Amnesty International has spoken to several other domestic and international actors who have expressed similar concerns. Irish academic Paul Downes states that “there is a real need for less academic Russian-speakers to be given hope through a strategic plan for their success. Such a plan would give them a role in Estonian...[...].society even if they cannot

⁶⁵ The Minister of Population Affairs, Paul-Eerik Rummo, has pointed out to Amnesty International that the fact that a majority of subjects will be taught in Estonian does not necessarily mean that a majority of classes will be taught in Estonian.

⁶⁶ Interview with Minister of Population Affairs, Paul-Eerik Rummo, and members of his office (1 September 2006).

⁶⁷ Interview with Minister of Population, Paul-Eerik Rummo, and members of his office (1 September 2006).

⁶⁸ Gil Robles, Alvaro, *Report by the Commissioner for Human Rights, On his Visit to Estonia, 27th-30th October 2003*, Council of Europe, Strasbourg, 12 February 2004.

⁶⁹ Second Opinion on Estonia adopted on 24 February 2005, Advisory Committee on the Framework Convention for the Protection of National Minorities, Paragraph 132.

cope with learning a second language. It would be an important protective factor against continuation of the cycle of social marginalisation...[and]...early school leaving.”⁷⁰

As the right to education empowers individuals to enjoy other human rights, Amnesty International recommends the Estonian authorities to monitor levels of drop-out rates in secondary schools where Russian is replaced by Estonian as the language of teaching; to provide more support for teachers who will be required to replace Russian with Estonian as their language of teaching; to provide additional and adequate resources (including necessary psychological and learning supports) for all students who are required to replace Russian with Estonian as their learning language to successfully manage this transition.

3.3.5 Language immersion

One of the main aims of the “Integration in Estonian Society 2000-2007” programme is “linguistic-communicative integration, i.e. the re-creation of a common sphere of information and an Estonian-language environment in Estonian society under conditions of cultural diversity and mutual tolerance.”⁷¹ In a meeting in September 2006 with an Amnesty International representative, the Minister of Population Affairs stressed that the aim of the 2000-2007 and the upcoming 2008-2013 Integration programmes was that everyone should have the same rights and opportunities, both in theory and in practice. The Minister stressed that it was important for the exercise of rights that everyone speaks the state language.⁷²

The Non-Estonians Integration Foundation has taken several initiatives to improve the Estonian language proficiency of adults who do not have Estonian as their first language. These efforts include free language teaching for persons in key professions such as police officials, prison officials and medical personnel.⁷³ Other initiatives include the “Labour force assignments within Estonia with the language practicing purpose” programme. This offers a scheme whereby Russian-speaking police officers from regions where opportunities to practice Estonian are limited are able to spend approximately one month at a police station in an area primarily populated by Estonian speakers.⁷⁴ Around 150 public servants participated in this programme in 2005.⁷⁵ Most initiatives to improve the Estonian language skills of linguistic minorities have been primarily financed through foreign funding, including the

⁷⁰ Downes, Paul. *Living with heroin. Identity, Social Exclusion and HIV among the Russian speaking Minorities in Estonia and Latvia*. Legal Information Centre for Human Rights, 2003.

⁷¹ Integration in Estonian Society 2000-2007, can be found on www.riik.ee/saks/ikomisjon/programme.htm#pohieesmark.

⁷² Interview with Minister of Population Affairs, Paul-Eerik Rummo, and members of his office (1 September 2006).

⁷³ www.meis.ee/eng/immersion (10 September 2006).

⁷⁴ Interview with Minister of Population Affairs, Paul-Eerik Rummo, and members of his office (1 September 2006).

⁷⁵ www.meis.ee/eng/adults/labourforce (10 September 2006).

European Social Fund⁷⁶ and the PHARE programme⁷⁷, and only in part by the Estonian state.⁷⁸

Another initiative to improve the level of Estonian proficiency among the linguistic minority is the Language Immersion Programme organized by the publicly-run Non-Estonians Integration Foundation.⁷⁹ The Language Immersion Programme targets school children and has two different levels. The first level, referred to as “early immersion” means that the Estonian language is studied as a subject by children in Russian-speaking kindergarten or during the first years in Russian-speaking primary schools. Several subjects are also studied in Estonian. The second level, referred to as “late immersion” sees students gradually switch to Estonian as the language of instruction. In grades seven and eight, the proportion of classes taught in the Estonian language increases to 76 per cent of the curriculum. The remaining 24 per cent includes Russian as a first language and a third language such as English.⁸⁰ In the 2004/05 academic year, a total of 1,650 students studied in the Language Immersion Programmes. Some additional training was provided to help teachers cope with the issues that emerge from bilingual teaching. The Estonian authorities also organize summer camps where children from various communities get together and where Russian-speaking children have a chance to practice their Estonian language skills.⁸¹ However, according to international psychological studies, children who learn a foreign language through this approach are several times more likely to develop learning difficulties, which are often associated with more profound psychological disturbances.⁸² Amnesty International is therefore concerned that this may not be the best method of teaching to use.

While Amnesty International commends efforts made thus far to improve the knowledge of the Estonian language among the Russian-speaking linguistic minority in order to improve their chances of successfully finding stable employment, the organization does not feel these efforts have been adequate. Amnesty International urges the Estonian authorities to monitor carefully the impact of Language Immersion Programmes on children’s learning abilities and psychological development, and to review and amend such programmes as appropriate.

⁷⁶ The European Social Fund (ESF) helps people improve their skills and, consequently, their job prospects. Created in 1957, the ESF is the EU's main source of financial support for efforts to develop employability and human resources. It helps Member States combat unemployment, prevent people from dropping out of the labour market, and promote training to make Europe's workforce and companies better equipped to face new, global challenges.

⁷⁷ The Phare programme is one of the three pre-accession instruments financed by the European Union to assist the applicant countries of Central and Eastern Europe in their preparations for joining the European Union. The PHARE programme is due to finish at the end of 2007, when it will be replaced by a programme called IPA.

⁷⁸ www.meis.ee (10 September 2006).

⁷⁹ www.meis.ee (10 September 2006).

⁸⁰ www.meis.ee/eng/immersion (10 September 2006).

⁸¹ Interview with Minister of Population Affairs, Paul-Eerik Rummo, and members of his office (1 September 2006).

⁸² Genesee, F. “Beyond bilingualism: social psychological studies of French immersion programmes in Canada”, *Cabadian Journal of Behavioural Science*, volume 16, Issue 4, 1984.

4. Right to work

Dmitri

Dmitri is a stateless man in his 50s. He was born in Russia but moved to Estonia when he was very young. He studied engineering at university. He used to work in the oil shale industry during the Soviet period, in eastern Estonia. However, after Estonian independence, the company he was working for was closed. Dmitri hoped for employment as an engineer in one of the many new companies that emerged in the new Estonian market economy.

“But I did not know Estonian. I applied for many jobs but I didn’t get any. They told me I didn’t fulfill the language requirements. I was often told that they wanted to employ me, I had a good reputation as a qualified and experienced engineer, but that they simply couldn’t employ me as it was against the law. I don’t blame them for not hiring me, it is important to follow the law.”

Dmitri spent a long time being unemployed. In the mid-90s he moved to Russia to seek employment. He got a job with a small engineering firm. His wife and children stayed in Estonia. After a few years Dmitri moved back to Estonia because he missed his family too much.

“I decided to make a real effort to create a life for myself and family in the new Estonia. I wanted to learn Estonian, become an Estonian citizen and get a good job to support my family and give my children a good role model. I took a course to learn Estonian, but at my age it is difficult to learn a foreign language. Also, I am not good with languages; I’m an engineer, my mind is mathematic, not linguistic.”

Dmitri failed his language exam and lost the money he had spent on the language course. This meant that he could not become an Estonian citizen, and that he was still not able to apply for the majority of jobs in Estonia. Dmitri has now found a job in a sector which requires no education and no Estonian language skills.

“I am happy that Estonia is independent, I can see that the future is brighter for kids here than it is in Russia or would have been in the USSR. But I am sad for myself. I used to be an engineer, I used to be proud of my profession and I loved my job. Now I am considered a burden to society. I’m considered a useless Russian who doesn’t speak Estonian, who has a low income job and doesn’t contribute to the future of this country. I try to stay positive, but it’s hard.”

4.1 Changes in the labour market in the post-independence period

After Estonia gained independence from the USSR in 1991, it began a process of transforming its economy from a command economy to a market economy. This process is in some respects still ongoing. In a command economy, the level of employment is decided centrally by government authorities. In the pre-1991 Soviet planned economy, employment was virtually 100 per cent. In a market economy, the level of employment is to a large extent determined by market forces and the fluctuating demand for labour.

Thus, the transition from a command economy to a market economy has also meant a loss of job security and many persons have found themselves unemployed. Among the sectors worst hit was heavy industry, which employed many workers from other parts of the Soviet Union who had transferred to Estonia during the Soviet period. This, combined with other factors such as citizenship and language requirements for employment in the public and private sectors, meant that the Russian-speaking minority population was disproportionately affected by unemployment in the period immediately after 1991.⁸³

4.2 Current labour market situation

Mihail

“They say we have a labour shortage in Estonia. People come here from other countries like Latvia and Poland to work. Yet, unemployment here in the north-east is still high. They say we don’t want to work, that we are unwilling to move to the west of Estonia to look for jobs. I could do that, but the easiest thing would be if they just changed the language requirements for employment. Then I could stay here in Ida-Virumaa. I am clever and full of energy, I could do great things here, set up my own company and make lots of money and create employment for other Russian-speakers. The only jobs I could get in the west of Estonia are unskilled jobs where Estonian is not required.”

Mihail, an ethnic Russian man in his late 20s from Ida-Virumaa who is currently unemployed. Mihail was born in Estonia and has lived there his whole life.

Unemployment levels in 2005⁸⁴

⁸³ Other sectors particularly hard hit by transitional economic policies include agriculture. Geographically, parts of the south of the country, inhabited primarily by ethnic Estonians, were also disproportionately negatively affected by changes in economic policies.

⁸⁴ Website of Statistical Office of Estonia: www.stat.ee (1 October 2006).

Ethnic Estonians	5.3%
Persons belonging to minorities	12.9%

Since first starting the process of transforming a command economy to a market economy, Estonia has had relatively strong economic growth. It suffered a slight set-back following the Russian financial crisis in the late 1990s, but its Gross Domestic Product (GDP) has since grown steadily at around or above 5 per cent per year. During this period of increased economic activity, the level of employment has increased as well. However, significant differences remain in the levels of employment between ethnic Estonians and persons belonging to the Russian-speaking linguistic minority. According to official statistics, 5.3 per cent of ethnic Estonians were unemployed while 12.8 per cent of persons belonging to the Russian-speaking linguistic minority were unemployed in 2005.⁸⁵ Persons belonging to the Russian-speaking linguistic minority are disproportionately affected by long-term unemployment.⁸⁶ Those persons belonging to the Russian-speaking linguistic minority who are stateless or Russian citizens are more likely to be unemployed or in low-wage professions than persons belonging to the Russian-speaking linguistic minority who are Estonian citizens,⁸⁷ increasing the need for the Estonian authorities to develop policies targeting unemployment among non-citizens who are permanent residents.

Already in 1993, ‘an assurance to improve the economic situation in North-Eastern Estonia’ was given by Estonian authorities to the High Commissioner for the Organization for Security and Co-operation in Europe (OSCE), Max Van der Stoep.⁸⁸ Yet, the economic situation in the north-eastern region of Ida-Virumaa which is densely populated by persons belonging to the Russian-speaking linguistic minority remains considerably worse than the national average, as does the employment situation.

4.3 International standards regarding the right to work

Several international treaties contain provisions which oblige states to respect, protect and promote the right to work.

4.3.1 Non-discrimination

The principle of non-discrimination is a well-established norm within international law. This principle extends to all spheres of life, including the right to work. In addition, Article 2 of

⁸⁵ Website of Statistical Office of Estonia: www.stat.ee (1 October 2006).

⁸⁶ Labour Force Survey 2003, table 93. Statistical Office of Estonia.

⁸⁷ *Estonian minority population and non-discrimination*, Legal Information Centre for Human Rights, 2006, p.49.

⁸⁸ Kemp, W.A. *Quiet diplomacy in action: The OSCE High Commissioner on National Minorities*. The Hague: Kluwer Law International, 2001.

the International Labour Organization's (ILO) Convention concerning Discrimination in Respect of Employment and Occupation states specifically that "each member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof."⁸⁹

4.3.2 Free choice

Article 6 of the ICESCR stipulates that everyone has the right "to gain his living by work which he freely chooses or accepts".⁹⁰ This principle is reflected in the European Social Charter, which obliges states to "protect effectively the right of the worker to earn his living in an occupation freely entered upon".⁹¹

4.3.3 Vocational training/education

Article 6 of the ICESCR provides that "the States Parties to the present Covenant recognise the right to work...[...].and will take appropriate steps to safeguard this right...[...].The steps to be taken...[...].shall include technical and vocational guidance and training programmes".⁹² The European Social Charter contains a provision regarding vocational guidance "to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge".⁹³

4.3.4 Full employment

Article 1 of the ILO's Convention concerning Employment Policy states that "[w]ith a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, each Member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment...[...].The said policy shall aim at ensuring that...[...]. there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin"⁹⁴. The principle of promoting full employment is also reflected in ILO's Convention

⁸⁹ C111 Discrimination (Employment and Occupation) Convention, International Labour Organization. Treaty came into force 15 June 1960. Estonia ratified this convention on 17 August 2005.

⁹⁰ Article 6, IESCR.

⁹¹ Article 1, European Social Charter, Council of Europe, adopted in 1961, came into force in 1965. Revised in 1996, came into force in 1999. Estonia ratified this convention on 11 September 2000.

⁹² IESCR, Article 6.

⁹³ Article 9, European Social Charter, Council of Europe.

⁹⁴ C122 Employment Policy Convention, 1964, International Labour Organization. Treaty came into force 15 July 1966. Estonia ratified this convention 12 March 2003.

concerning Employment Promotion and Protection against Unemployment,⁹⁵ to which Estonia is not yet a state party. In the European context, the right to work is protected by amongst other things Article 1 of the European Social Charter, which states that “with a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake: to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment.”⁹⁶

At EU level, Article 136 of the Treaty on the European Community states that the “Community and the Member States...[...]...shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection...[...]...with a view to lasting high employment and the combating of exclusion”.⁹⁷

4.3.5 International pressure on Estonia regarding the right to work

Some international pressure has been put on Estonia in order to encourage it to make it easier for persons belonging to the Russian-speaking linguistic minority to improve their Estonian language skills and thus improve their chances of gaining employment. For example, in its third report on Estonia, ECRI recommended that the “Estonian authorities provide good quality, free of charge Estonian language courses for non-Estonian speakers in order to improve their integration into society. It recommended in this regard that the different needs of minority groups be taken into account for such language courses and that they be extended to the whole country”.⁹⁸

The Committee on the Elimination of Racial Discrimination has also that recommended Estonia facilitate the learning of the Estonian language, however focusing on stateless persons, by stating that Estonia should “consider providing to all citizenship applicants high-quality and free-of-charge language courses, and to strengthen awareness-raising efforts on the naturalization procedure and its benefits.”⁹⁹

⁹⁵ C168 Employment Promotion and Protection against Unemployment, International Labour Organization. Treaty came into force 17 October 1991. Estonia is not a state party.

⁹⁶ Article 1, European Social Charter, Council of Europe, adopted in 1961, came into force in 1965. Revised in 1996, came into force in 1999.

⁹⁷ Article 136, Treaty of Amsterdam, 1999, Signed 2 October 1997, entry into force 1 May 1999

⁹⁸ Third report on Estonia, European Commission against Racism and Intolerance, adopted 24 June 2005, Paragraph 22.

⁹⁹ Concluding Observations on Estonia. Committee on the Elimination of Racial Discrimination. Sixty-ninth session 31 July to 18 August 2006, Paragraph 15.

4.4 Barriers to employment for persons belonging to the Russian-speaking linguistic minority

There are many barriers to employment for persons belonging to the Russian-speaking linguistic minority, notably comprehensive citizenship and language requirements for employment both in the public and private sector. These requirements are outlined and discussed below. According to the Estonian authorities, “the prescription of the requirement of knowledge of Estonian for civil servants and employees who communicate with individuals in certain spheres of activity (for example, in the protection of the environment, health and security) is an inevitable condition for the normalization of the linguistic situation of Estonia and the safeguarding of the status of the Estonian language”.¹⁰⁰

4.4.1 Public sector citizenship requirements

Non-citizens, a category which includes both stateless persons and citizens of foreign states, who constitute just under 20 per cent of the Estonian population, are prohibited by law from working as state or municipal officers.¹⁰¹ Amnesty International notes that this affects non-citizens and persons belonging to the Russian-speaking linguistic minority negatively in terms of employment opportunities and constitutes indirect discrimination. The organization therefore urges Estonia to take the adverse effects of current public sector citizenship requirements on employment for non-citizens into account in policy-making processes to reduce unemployment. Such policies could include allowing non-citizens to work in the public sector.

4.4.2 Private sector language requirements

Success rate of members of linguistic minorities sitting Estonian language proficiency exams¹⁰²

Level	Pass rate
Lowest level	57%
Intermediate level	52%
Advanced level	55%

Article 2(2) of the Estonian Law on Language stipulates Estonian language requirements in the private sector. These requirements mean that for many jobs in the private sector,

¹⁰⁰ Website of Non-Estonians’ Integration Foundation: www.meis.ee/eng/adults (10 September 2006).

¹⁰¹ Article 8, Law on Applied Higher Institutions.

¹⁰² Website of State Centre for Exams and Qualifications: www.ekk.edu.ee (5 June 2006).

especially those where the employee has contact with the wider public, a person belonging to a linguistic minority is required to possess a certificate of Estonian language proficiency.¹⁰³ According to the text of the law, these language requirements have been introduced “in the public interest”, which is defined as “public safety, public order, general government, public health, health protection, consumer protection and occupational safety”.¹⁰⁴ There are currently three different Estonian language certificates, with each level requiring a different level of proficiency in the Estonian language. The success rate for those sitting the language certificate exams usually varies between 50 and 60 per cent.¹⁰⁵ Different jobs will require the employee to possess different language certificates. Generally, the more contact the employee has with the public, the more advanced their language certificate needs to be in order to legally seek employment in that sector.

In many parts of Estonia, notably the north-eastern region of Ida-Virumaa, Estonian is not spoken by the majority of those residing in the region. This means that Estonian language skills are *de facto* not necessarily needed in all professions. The result is that although many persons belonging to the Russian-speaking linguistic minority would be able to carry out several functions in the labour market without endangering public safety or order, they find themselves unemployed with no or limited realistic opportunities to gain legal employment in the formal sector as they do not have the appropriate Estonian language certificate. Many persons belonging to the Russian-speaking linguistic minority thus find themselves working in the informal sector; performing low-skilled labour in the formal employment sector; or being unemployed.

In order to gain sufficient Estonian language proficiency to successfully pass the language exams, most non-Estonian speakers have to attend language classes. Language classes are fairly costly and persons belonging to the Russian-speaking linguistic minority often have to spend the equivalent of one or two months’ salary on attending a course. While fees for language classes preparing stateless persons for citizenship exams can be reimbursed if the candidate passes the exams, there are no such mechanisms in place for those attending language classes simply in order to improve their Estonian language skills.

Amnesty International urges the Estonian authorities to consider pragmatic and solution-oriented approaches towards language policies in the private sector. Amnesty International recommends the Estonian authorities to make all Estonian language classes reimbursable, including those taken to improve Estonian language proficiency for better employment prospects.

¹⁰³ For regulations relating to employment in the public sector, see governmental regulation no. 249 of 16 August 1999. For laws regulating employment in the private sector, see governmental regulation no. 164 of 16 May 2001.

¹⁰⁴ It is worth noting that knowledge of Russian in towns and regions predominantly inhabited by Russian speakers is not considered to be necessary “in the public interest”.

¹⁰⁵ Website of State Centre for Exams and Qualification: www.ekk.edu.ee/.

4.4.3 Language Inspectorate

Ivan

Ivan, a Russian-speaker in his late 40s who lives in Ida-Virumaa in north-eastern Estonia, works for a public sector office. He received a phone call at work from someone speaking in Russian.

"I answered the phone in Estonian but the person started talking to me in Russian, so I switched to Russian as well. It was just a reflex, I didn't think about it. The next day I received a visit from the Language Inspectorate who said that they had information stating that I did not answer the phone in Estonian and that they wanted to check that I had all the necessary language certificates required for my position. Luckily I did. They also conversed with me for a long time in Estonian about my job. They used really technical and difficult language. My Estonian is quite good but I was a bit nervous and made some mistakes. I was really scared that they would report me and that I would lose my job. I don't know how I would support my family if I lost my job. In the end they said that my language skills were good enough for the job that I have and they were actually quite nice about the whole thing and they have not visited me since. So really, I have no problems, but I will never forget the fear I felt when they arrived unannounced and when I thought about all I stood to lose – my job, the means to support my wife and children, mine and my family's future."

Since 1990, Estonia has had a variety of agencies implementing language laws in the country. Since 1998, this agency is called the Language Inspectorate. The Language Inspectorate is a governmental institution under the jurisdiction of the Ministry of Education.¹⁰⁶ One of the functions of the Language Inspectorate is to monitor and ensure that all persons in employment have the required language certificates and linguistic proficiency required by law to be employed in the position that they hold. To this end, the Inspectorate carries out both announced and unannounced monitoring, including visits to work places. The Language Inspectorate has 15 full-time inspectors and makes approximately 1,000 visits a year.¹⁰⁷ The Language Inspectorate also issues a high number of control acts¹⁰⁸. In 2003, the Inspectorate drafted 2,400 control acts, while the corresponding figures for 2004 and 2005 were 2,371 and 2,607 respectively.¹⁰⁹ One group often targeted by the Language Inspectorate are teachers of the Russian language. In 2004 the Estonian language proficiency level of 513 teachers of

¹⁰⁶ Website of Language Inspectorate: www.keeleinsp.ee/?lang=1 (13 September 2006).

¹⁰⁷ Third report on Estonia, European Commission against Racism and Intolerance, adopted 24 June 2005. Paragraph 18.

¹⁰⁸ A 'control act' is a broad term to mean any action aimed at controlling the implementation of the language laws applicable to employment.

¹⁰⁹ Website of Language Inspectorate: www.keeleinsp.ee (1 June 2006).

Russian language schools was checked. The Inspectorate decided that 476 failed to meet the officially established requirements.¹¹⁰

The Language Inspectorate may issue warnings or written orders against individuals and employers found in breach of the Law on Language. The Language Inspectorate may also impose fines.¹¹¹ Amnesty International has spoken to many persons belonging to the Russian-speaking linguistic minority who say that they fear the Language Inspectorate, because they fear losing their jobs if their Estonian skills are found to be insufficient. This problem is particularly pertinent in Ida-Virumaa where most persons in employment have studied for and passed the Estonian language exam required for their profession. However, many persons belonging to the Russian-speaking linguistic minority rarely have a chance to practice their Estonian language in their everyday lives. Thus, their spoken Estonian is often less proficient than their Estonian language certificate indicates. In practice, there is both a perceived and a real risk that their lack of proficiency in spoken Estonian may lead the Language Inspectorate to take action against them and possibly their employers.

Information available to Amnesty International from discussions with persons belonging to the Russian-speaking linguistic minority and domestic NGOs suggests that the Language Inspectorate in recent years has taken an increasingly lenient and pragmatic approach towards the implementation of the Law on Language. However, this approach is not based in law, and has not decreased the fear that many have of the Language Inspectorate.

In its third report on Estonia, ECRI states that “the Language Inspectorate does not appear to take into account regional specificities when applying the Language Law. It has been noted that it is for example somewhat unrealistic to require fluency in Estonian from private sector employees in the Ida-Virumaa County”.¹¹² Amnesty International agrees and re-iterates its call on the Estonian authorities to consider pragmatic and solution-oriented approaches towards language policies in the private sector.

¹¹⁰ *Eesti Päevaleht*, (5 February 2005), quoted in *Estonian minority population and non-discrimination*, Legal Information Centre for Human Rights, 2006, p.51.

¹¹¹ Website of the Language Inspectorate: www.keeleinsp.ee/?lang=1 (13 September 2006).

¹¹² Third report on Estonia, European Commission against Racism and Intolerance, adopted 24 June 2005. Paragraph 18.

4.4.4 Socio-economic integration



Despite the fact that the Estonian economy has fared well since independence in 1991, many Estonians still live in poor conditions. (Picture from Tallinn 2006) © AI

Disproportionately high unemployment among the Russian-speaking linguistic minority and partly segregated labour market has meant that socio-economic integration in Estonia has been inadequate in later years. In a report on Estonia published in 2004 by Alvaro Gil Robles, the then Council of Europe Commissioner for Human Rights, the need for a more proactive approach to socio-economic integration was stressed:

“Despite the positive shift in mentalities and in practice, a number of challenges still remain, however, in the practical implementation of the laws and policies, in the efforts to reduce the socio-economic differences between the different groups of the population, as well as in the protection of the minority languages and identity.”¹¹³

¹¹³ Gil Robles, Alvaro, *Report by the Commissioner for Human Rights, On his Visit to Estonia, 27th-30th October 2003*, Council of Europe, Strasbourg, 12 February 2004.

The Estonian authorities have themselves stated the need for an increased focus to be placed on socio-economic integration to complement efforts to improve linguistic integration in Estonia. In its Second Report on the implementation of the Council of Europe Framework Convention for the Protection of National Minorities, the Estonian authorities state that:

“Social scientists have noted that the applied side of the integration program in the years 2000-2003 has focused primarily on the cultural-linguistic aspect of the integration, while other aspects have receded relatively in the background. This approach was justified in a given period of time. In order to secure the success of political and socio-economic integration, the proficiency in Estonian language and the embedding of people in the Estonian society was of paramount importance... Alongside [language learning] more attention should be paid to objectives of political and socio-economic integration.”¹¹⁴

The UN Committee on the Elimination of Racial Discrimination has also identified the inadequacy of efforts to promote socio-economic integration and recommended that “measures be taken to reduce unemployment among members of the minority communities, inter alia, by focusing on professional training and providing high quality and subsidised language training, in particular to members of Russian-speaking minorities.”¹¹⁵

Insufficient attention has been paid by the Estonian authorities to socio-economic integration. The “Integration in Estonian Society 2000-2007” programme did not have any substantial provisions to aid socio-economic integration of the economy or the labour market. In this respect, Amnesty International urges the Estonian authorities to include substantial provisions for socio-economic integration in the National Integration Program for 2008-2013 which is currently being drafted. Such provisions should include efforts for actively targeting unemployment among persons belonging to the Russian-speaking linguistic minority and incentives for actors of all ethnic backgrounds in the labour market to employ a multi-ethnic work force.

4.4.5 Lack of effective remedies for discrimination in the work place

Irina

Irina is a stateless woman in her mid-twenties. She was born in Estonia and has lived her whole life in Estonia. Irina has been trying hard to find stable employment so she can support herself. Irina says there is a lot of informal discrimination in Estonia.

¹¹⁴ Estonia’s Second Report on the implementation of the Council of Europe Framework Convention for the Protection of National Minorities.

¹¹⁵ Concluding Observations on Estonia. Committee on the Elimination of Racial Discrimination. Sixty-ninth session 31 July to 18 August 2006. Paragraph 16.

"In 2005 I rang about a job advertised in a newspaper and was asked whether I was a citizen. When I said no, they said I could not apply. This was in a factory in the private sector. That means that they could not deny me the opportunity of applying because I am not a citizen, as that rule only applies in the public sector. As the job entails no contact with the public, there should be no language laws applying to this job. I wasn't denied the job because they legally couldn't employ me or because I wasn't good enough for the job. I was denied the job because of their prejudices."

Irina also tells of one temporary factory job she had.

"I worked in a factory with Estonian managers. If I was late or broke something I was fined and so were my Russian colleagues. About 20 per cent of the shop-floor workers were ethnic Estonian and they were never fined, even if they broke the rules."

Irina has other temporary factory jobs. In her latest job, which was in the informal sector and where all her colleagues were stateless Russian-speaking women, she earned below minimum wage. When asked why she has never made any official complaint about the discrimination she feels that she has suffered, she says she didn't know that you could complain. She had never heard of Estonian anti-discrimination legislation and did not know that she could have lodged a complaint with the Justice Chancellor's Office.

"I do not think any of my friends know that you can complain if you are discriminated against on the labour market."

Many Russian-speaking Estonians feel that they are being discriminated against in the labour market. However, many persons belonging to the Russian-speaking linguistic minority are not aware of the remedies that are available to them. Amnesty International also maintains that the recourses in place are not adequate to protect persons belonging to the Russian-speaking linguistic minority against discrimination in the work place.

Anti-discrimination legislation

Discrimination is prohibited by Article 12 of the Estonian Constitution which states that "everyone is equal before the law. No-one shall be discriminated against on the basis of ethnic origin, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds."¹¹⁶ The principle of non-discrimination is also reflected in other legal provisions, including the Law on Labour Contracts.¹¹⁷ The Law on Labour Contracts prohibits 'unequal treatment' based on, amongst other things, sex, race, age, ethnic origin, language proficiency, social status, political opinion, religious or other belief.¹¹⁸ The law applies both to persons in employment and to job applicants.

¹¹⁶ Article 12, Constitution of Estonia.

¹¹⁷ RT I 2004, 37, 256.

¹¹⁸ Article 10, Law on Labour Contracts.

With regards to anti-discrimination legislation, the UN Committee on the Elimination of Racial Discrimination recommended that “legislation prohibiting discrimination in employment and all discriminatory practices in the labour market be fully implemented in practice.”¹¹⁹ Amnesty International agrees and recommends that the Estonian authorities to ensure that legislation prohibiting discrimination in employment and all discriminatory practices in the labour market be fully implemented in practice.

The fact that few of the persons belonging to the Russian-speaking linguistic minority interviewed by Amnesty International knew that Estonia has anti-discrimination legislation suggests that levels of awareness of this legislation among this group is inadequate. Amnesty International recommends that the Estonian authorities take active steps to increase awareness of anti-discrimination legislation and the remedies that it provides among persons belonging to the Russian-speaking linguistic minority.

The Chancellor of Justice

The Office of the Chancellor of Justice of the Republic of Estonia has a broad mandate.¹²⁰ As the guardian of constitutionality, the Office of the Chancellor of Justice¹²¹ reviews legislation passed by the legislative and executive powers as well as by local authorities to monitor whether it is in conformity with the Constitution. In 1999, the Office of the Chancellor of Justice was given the functions of an Ombudsman, assuming the role of protecting individuals against the arbitrary exercise of state authority and maladministration. In 2004, the mandate was extended still further to include the settlement of discrimination disputes. In this capacity, the Office of the Chancellor of Justice resolves discrimination disputes between parties under private law (i.e. persons and companies, not the state). The Chancellor of Justice can only initiate what the institution defines as “conciliation proceedings” if an individual makes a complaint and both affected parties agree to participate in the proceedings. The Chancellor of Justice cannot initiate proceedings himself, and if one party refuses to take part, proceedings can not commence.

In a meeting with an Amnesty International representative, members of the Office of the Chancellor of Justice emphasized that in its Ombudsman function, it did not have the powers to impose penalties, but rather to make recommendations. However, the Office of the Chancellor of Justice informed Amnesty International that the majority of its recommendations have been implemented by the relevant institutions against which complaints have been launched.¹²² The representatives stated that most complaints they receive in their Ombudsman function regarding restrictions on the use of the Russian

¹¹⁹ Concluding Observations on Estonia. Committee on the Elimination of Racial Discrimination. Sixty-ninth session 31 July to 18 August 2006. Paragraph 16.

¹²⁰ Meeting with representatives of the Justice Chancellor’s Office (31 August 2006).

¹²¹ The Justice Chancellor’s Office has approximately 40 employees.

¹²² Meeting with representatives of the Justice Chancellor’s Office (31 August 2006).

language came from Russian-speaking prisoners who complained about the fact that they could not communicate with courts in Russian.¹²³

Article 8 of the Estonian Language Act leaves Estonian institutions a margin of discretion regarding whether or not to accept documents in a foreign language. This means that, for example, a court is not obliged to accept documents in a foreign language, in this case Russian, or to translate its reply into a foreign language. Meanwhile, Article 21 of Estonia's Administrative Procedure Act gives institutions the possibility to translate documents into foreign languages. The possibility of communicating with the courts in Russian is therefore at the discretion of the courts. According to the Office of the Chancellor of Justice, the Chancellor has always emphasised the importance of courts using this discretion correctly, that is to decide on a case-by-case basis whether or not to accept documents in a foreign language and whether or not to translate documents. The Office of the Chancellor of Justice has also emphasized to Amnesty International that actual criminal charges are always presented to the accused in a language which he or she understands.¹²⁴ Amnesty International maintains that, if an accused needs to have relevant documents translated, he or she should be allowed to request translation in the course of the proceedings and as their right to adequate facilities to prepare the defence would be prejudiced without such translations. Jurisprudence from the European Court of Human Rights has also held that oral translations of documents suffice as guaranteeing the right to translation during proceedings.¹²⁵

The interviews that Amnesty International has conducted with persons belonging to the linguistic minority who claim to have been discriminated against in the workplace, together with the lack of formal complaints to the Chancellor of Justice, suggest that the Ombudsman and anti-discrimination functions of the Office of the Chancellor of Justice are not particularly well-known among persons belonging to the Russian-speaking linguistic minority. Furthermore, Amnesty International does not believe that the role of Ombudsman under the mandate of the Chancellor of Justice meets the criteria for the effectiveness of national human rights institutions as set out in the UN "Principles relating to the status of national institutions for the promotion and protection of human rights" (Paris Principles).¹²⁶

The Committee on the Elimination of Racial Discrimination has similarly noted "the absence in the State party of a national human rights institution established in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (art. 2 (1))."¹²⁷ Considering the context of human rights abuses in the field of minority protection and the right to work, Amnesty International is concerned that

¹²³ Meeting with representatives of the Justice Chancellor's Office (31 August 2006).

¹²⁴ Meeting with representatives of the Justice Chancellor's Office (31 August 2006).

¹²⁵ *Harward v. Norway*, (451/1991), 15 July 1994, UN Doc. CCPR/C/51/D/451/1991.

¹²⁶ National institutions for the promotion of human rights, General Assembly resolution 48/134 of 20 December 1993.

¹²⁷ Concluding Observations on Estonia. Committee on the Elimination of Racial Discrimination. Sixty-ninth session 31 July to 18 August 2006, Paragraph 10.

Estonia does have a national human rights institution which is in compliance with the Paris Principles. Amnesty International therefore recommends that Estonia ensure that the mandate and functions of the Chancellor of Justice are in compliance with the Paris Principles.

The powers of the Office of the Chancellor of Justice to settle discrimination disputes are limited. In 2005, for example, only three discrimination cases were reported to the Justice Chancellor and none of them were resolved. In fact, the Committee on the Elimination of Racial Discrimination “reminds the State party that the mere absence of complaints and legal action by victims of racial discrimination may be mainly an indication of the absence of relevant specific legislation, or of a lack of awareness of the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. The Committee requests the State party to ensure that appropriate provisions are available in national legislation, and to inform the public about all legal remedies in the field of racial discrimination.”¹²⁸ Amnesty International recommends that the Estonian authorities give the Office of the Chancellor of Justice more effective means to settle discrimination disputes.

¹²⁸ Concluding Observations on Estonia. Committee on the Elimination of Racial Discrimination. Sixty-ninth session 31 July to 18 August 2006, Paragraph 19.

5. Recommendations

This report has highlighted the failure of the Estonian authorities to guarantee the Russian-speaking linguistic minority full enjoyment of economic, social and cultural rights. It has done so by focusing on barriers to full and effective enjoyment primarily on minority rights and the right to employment. It has done so through legislative analysis, and through case studies that clearly accentuate the effects of current policies in many fields on the individual and on the individual's human rights.

Persons belonging to the Russian-speaking linguistic minority do not enjoy internationally recognized minority rights; current employment policies mean that Russian-speakers are disproportionately affected by unemployment and by extension often by social exclusion; upcoming secondary school reforms risk increasing the number of Russian-speakers who drop out of school and thus put them at risk of further social exclusion; and current provisions and practices in place are not able to guarantee that no-one is discriminated against in the work place.

Therefore, Amnesty International calls on the Estonian authorities to:

- *Recognize its Russian-speaking minority as a linguistic minority and ensure that this linguistic minority is fully protected by all provisions of the Council of Europe's Framework Convention for the Protection of National Minorities.*
- *Allow stateless permanent residents to work in the public sector and amend private sector language requirements to allow non-Estonian speakers to gain employment in professions with contact with the public in areas where the vast majority of clients/customers are Russian-speaking.*
- *make all fees for all Estonian language courses reimbursable, also those taken by persons belonging to the Russian-speaking linguistic minority in order to improve their Estonian language skills and to acquire language certificates for employment.*

Amnesty International recommends that Estonia adopts the following measures in relation to labour rights:

- take into account when drafting and implementing policy-making processes to reduce unemployment the fact that regulations regarding who can work in the public sector affects non-citizens and persons belonging to the Russian-speaking linguistic minority negatively in terms of employment opportunities;

- monitor the links between restrictive language and employment policies on the one hand, and social exclusion and vulnerability to further human rights abuses on the other;
- take into account the adverse effects of current public sector citizenship requirements on employment for non-citizens in policy-making processes to reduce unemployment;
- include substantial provisions for socio-economic integration in the National Integration Programme for 2008-2013 which is currently being drafted. Such provisions should include efforts for actively targeting unemployment among persons belonging to the Russian-speaking linguistic minority and incentives for actors of all ethnic background on the labour market to employ a multi-cultural work force;
- increase funding for integration programmes.

Amnesty International recommends that Estonia adopts the following measures in relation to minority rights:

- re-consider its current definition of what constitutes a national minority to acknowledge the existence of a *de facto* Russian-speaking linguistic minority in Estonia. This definition should enable all those who lived in Estonia before 1991 and their descendants to qualify as belonging to a minority, regardless of their citizenship status. The recognition of the Russian-speaking community as a national minority should not be conditional upon the Russian speaking community applying for minority status in accordance with the Law on Cultural Autonomy of National Minorities;
- sign and ratify the European Charter for Regional or Minority Languages;
- allow Russian to be allowed to be used in communications with the authorities and in local authority meetings in regions and cities where the criteria in Article 10(2) of the of the Council of Europe's Framework Convention for the Protection of National Minorities are met;
- actively publicize to those stateless persons not already in possession of long-term residency status the fact that until 1 June 2007 there is no language requirement for becoming a long-term resident;
- take concrete measures to promote understanding and awareness of the multi-cultural nature of Estonia's population through education in consideration of the recommendations and standards cited above;

- provide more support for teachers who will be required to replace Russian with Estonian as their language of teaching;
- monitor levels of drop-out rates in secondary schools where Russian is replaced by Estonian as the language of teaching;
- take concrete measures to combat any potential increase in drop-out rates in secondary schools where Russian is replaced by Estonian as the language of teaching;
- take concrete measures to reduce the risk of Russian-speakers who drop out of secondary schools become socially excluded and marginalized;
- consider slowing down the pace of the transition from Russian to Estonian as the language of teaching in previously Russian-speaking schools to ensure that adequate and necessary preparations for the transition and safeguards against potential adverse effects including increased drop-out rates and weak academic performance among the Russian-speaking students are in place.

Amnesty International recommends that Estonia adopts the following measures in relation to discrimination:

- ensure that legislation prohibiting discrimination in employment and all discriminatory practices in the labour market be fully implemented in practice;
- take active steps to increase awareness of anti-discrimination legislation among persons belonging to the Russian-speaking linguistic minority;
- give the Office of the Chancellor of Justice more effective means to settle discrimination disputes;
- ensure that the mandate and functions of the Chancellor of Justice are in compliance with the Paris Principles

Amnesty International recommends that Estonia adopts the following measures in relation to statelessness:

- become party to the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons.

In relation to the protection of human rights within the territory of the European Union, including Estonia, Amnesty International recommends that

The European Union:

- explicitly integrates respect for and protection of minorities into the EU legal framework;
- calls on Estonia to fully respect its engagement when joining the EU to protect minorities and to fully implement in law and practice EU human rights and non-discrimination standards;
- urges Estonia to recognize its Russian-speaking minority as a linguistic minority and ensure that this linguistic minority is fully protected by all provisions of the Council of Europe's Framework Convention for the Protection of National Minorities;

The European Commission:

- to give particular consideration to the situation of linguistic minorities in Estonia when monitoring Estonia's implementation of EU non-discrimination law;
- continues co-funding and monitoring the implementation of projects dedicated to support the integration of minorities in Estonia, in particular: the DG Employment and Social Affairs and DG Education and Culture to monitor Estonia's compliance with the commitments made with regard to improving access to the labour market of the Russian-speaking linguistic minority and to continue supporting activities dedicated to education of linguistic minorities.

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