

## **Overview of the Human Rights Situation in Estonia in 2005**

The previous overview of the human rights situation in Estonia was compiled by the Estonian Institute of Human Rights for 1999 and is available in both Estonian and English.<sup>1</sup>

The present overview of the human rights situation in Estonia addresses issues in comparison with the previous overview to analyse the development of human rights in Estonia by 2005.

Estonia is a member of NATO and the European Union, and influenced by developments in Europe and in the world Estonian society is developing in unison with the globalized world.

Estonia is a democratic republic with a parliamentary system of government that regained its independence in 1991 after fifty years of occupation.

Fundamental human rights are protected in Estonia by Chapter 2 of the Constitution of the Republic of Estonia, “Fundamental rights, freedoms and duties”, and by supporting acts. Since 1991 the Republic of Estonia has joined a number of human rights agreements of the United Nations and the Council of Europe, which according to Section 3 of the Constitution are an inseparable part of the Estonian legal system.

In a referendum based on Section 162 of the Constitution and held on 14 September 2003, the people of Estonia adopted the following Act to amend the Constitution:

§ 1. Estonia may belong to the European Union in accordance with the fundamental principles of the Constitution of the Republic of Estonia.

§ 2. Upon Estonia’s accession to the European Union the Constitution of the Republic of Estonia shall apply, taking into account the rights and obligations arising from the Accession Treaty.

§ 3. This Act may be amended only by referendum.

§ 4. This Act shall enter into force three months after the date of proclamation.

The Republic of Estonia joined the European Union on 1 May 2004 and 2005 was Estonia’s first full year in the European Union.

On 3 December 2005, the 8<sup>th</sup> Seto Congress adopted an address to the Parliament of the Republic of Estonia (the Riigikogu) in which they pointed out that allowing the border of the Republic of Estonia to coincide with the old border of the ESSR and ratification of such would be a violation of the proprietary and human rights of Setos and other people living in Petserimaa. On 18 May, a border agreement was signed between the governments of the Republic of Estonia and the Russian Federation and ratified in the

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<sup>1</sup>

<http://www.eihr.ee/texts/ulevaade1999.doc> , <http://www.eihr.ee/texts/ulevaade1999i.doc>

Riigikogu on 20 June 2005, but the Russian Federation failed to ratify the border agreement and backed down from the agreement between the governments.

Section 14 of the Constitution of the Republic of Estonia stipulates that the guarantee of rights and freedoms is the duty of legislative, executive and judicial powers and of local governments.

The provision of information on and the protection of human rights on a non-profit basis is very limited in Estonia due to underfunding, which makes access to justice difficult or even impossible for some people. Unfortunately, project-based activities cannot substitute continuous persistent action that follows the development of society and the needs of the people.

### **Investigation of Crimes Against Humanity and War Crimes**

The Security Police Board has been investigating crimes against humanity and war crimes since 1995, when the Riigikogu incorporated crimes against humanity into the Estonian Criminal Code. The Penal Code, which entered force on 1 September 2002, includes both crimes against humanity and war crimes in separate divisions.

The crimes under investigation can be divided into four groups:

1. Crimes against humanity and war crimes committed by occupying Soviet authorities in 1941, e.g. the activities of destruction battalions and the June deportations.

In the case of these crimes, the passage of time has affected the criminals, the witnesses and partly also the documentary evidence, and no one has been convicted of these crimes. The investigation of the activities of Vassili Riis, former head of the Saare County department of the ESSR People's Commissariat for Internal Affairs/People's Commissariat for State Security (PCIA/PCSS), was the most successful. Riis was charged with a crime against humanity because, as the head of the Saare County department of ESSR PCSS in 1941, he gave his written permission for the arrest or extra-judicial deportation of 1062 citizens of the Republic of Estonia in June and July 1941. On 3 June 1996 this criminal case was sent to Saare County Court but failed to reach a judicial decision, because the court suspended the proceeding until the recovery of the defendant. The criminal proceeding was terminated on 26 March 1998 due to the death of Riis on 28 February 1998.

The criminal case of Idel Jakobson, who worked for almost ten years as the head and deputy head of the former investigation department of ESSR People's Commissariat for Internal Affairs/Ministry for State Security (PCIA/MSS), was terminated by the Public Prosecutor's Office on 18 February 1997 because the forensic medical and forensic psychiatric examination found that Jakobson was not capable of assuming responsibility due to his mental and physical state. The investigation conducted by the Security Police gave grounds for suspecting him of repressing at least 1800 people. Jakobson, the last living member - and probably the one with the bloodiest history - of the leadership of the criminal repressive body of the 1940s, died on 12 September 1997.

2. Crimes against humanity and war crimes committed during German occupation.

Unlike crimes committed by Soviet authorities, these crimes have previously also been investigated by various institutions. Due to the great temporal distance and the previous

investigations, it is difficult to find any new evidence for prosecuting anybody. This became evident in the investigation of the matter of Harry Männil, where the Public Prosecutor's Office terminated the proceeding on 30 December 2005 because of lack of evidence that would prove Männil's guilt in crimes against humanity and war crimes.

An investigation is under way in the matter of the Estonian citizen Mihail Gorškov who, working as an interpreter for the German Security Police and SD from 1942 to 1944 in Minsk in occupied Belarus, participated in the liquidation of the Slutski ghetto in February 1943 and in operations against partisans in June and July 1942 in the regions of Uzda, Kopyli and Stolpce, where they also struck civilians. No evidence has been found so far to suspect Gorškov of crimes against humanity.

### 3. Criminal cases on the killings of partisans.

Karl-Leonhard Paulov, former destruction agent of the Ministry for State Security, was charged with killing, as a destruction agent, three partisans in Veriora, Võru County, Estonia on 18 and 27 October 1945. Põlva County Court and Tartu Court of Appeal qualified Paulov's crimes as murder with the purpose of personal gain. The Supreme Court overturned the decisions of the county court and the court of appeal on 21 March 2000 and referred the matter to Põlva County Court for a new hearing by a different panel. Põlva County Court convicted Paulov of a crime against humanity on 29 July 2000 and sentenced him to 8 years' imprisonment in a maximum-security prison. The court of appeal left the decision unchanged and the Supreme Court refused to give the appeal in cassation the leave to appeal. Thus Paulov became the first and so far only person to have committed crimes against humanity to whom the Estonian courts have deemed it necessary to impose a real prison sentence. Paulov died on 6 February 2002 due to an age-induced disease in Murru prison while serving his sentence.

Systematic attacks against civilians from 1944 to 1978 carried out by the USSR People's Commissariat for State Security, the Ministry for State Security, the Ministry of Internal Affairs and the Committee for State Security to suppress resistance to the occupation in Estonia, which caused the deaths of at least 2700 people, are being further investigated within the framework of a so-called general criminal case, of which separate criminal cases can be separated for specific persons if need be.

### 4. The March deportation of 1949.

On 13 January 1995 the Security Police opened a criminal case into the deportation of 20,702 people from the annexed territory of the Republic of Estonia to the territory of the USSR from 23 to 25 March 1949 in order to suppress resistance to the occupation, thus committing crimes against humanity against Estonian citizens. About 70% of the deportees were women, children and the elderly. Current data shows that 3000 people died during the journey and forced resettlement.<sup>2</sup> Seven people have been convicted of deportation as a crime against humanity and they have all received conditional sentences. The choice of a conditional sentence is understandable, because those punished have reached old age and do not pose a threat to society as a rule and the conviction plays, first and foremost, a condemnatory and preventive role. Many proceedings have been terminated because of the poor health status or death of the defendant. No person charged with a crime against humanity by the Security Police has been acquitted.

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<sup>2</sup> The White Book: Losses Inflicted on the Estonian Nation by Occupation Regimes from 1940 to 1991, p 29, Tallinn 2005

The Penal Code, which entered force on 1 September 2002, makes a clear distinction between a crime against humanity and genocide and enables the unambiguous denunciation of the 1949 March deportation as genocide against the Estonian people. The only major living figure of the March deportation, Arnold Meri, former First Secretary of the Central Committee of the EC(b)P (Estonian Communist (Bolshevik) Party) and of the ELKNÜ (Leninist Young Communist League of Estonia), has been declared a suspect in the genocide.

### **Problems Protecting Human Rights in Law Enforcement Authorities and Offences Committed by Law Enforcement Officials**

The most problematic issue is how to guarantee access to the administration of justice. Section 15 of the Constitution of the Republic of Estonia provides that everyone whose rights and freedoms are violated has the right of recourse to the courts. The State Legal Aid Act entered force on 1 March 2005. Its purpose is to ensure the timely and sufficient availability of competent and reliable legal services to all persons. In practice, however, a situation has developed where excessive bureaucracy has put the entire positive meaning of law under question, because what has been created is largely a system of legal aid that does not satisfy those in need of aid, legal counsel, lawyers or the courts.

The Estonian court system comprises four county courts, two administrative courts, three courts of appeal and the Supreme Court (the Supreme Court also being the court of constitutional review). County courts and administrative courts are the courts of first instance, whose decisions can be appealed in courts of appeal. Statistical data about the proceedings of first and second instance in the Republic of Estonia in 2005<sup>3</sup> includes some troubling statistics, where the results of reviewing appeals against court decisions and rulings show that in the Tallinn Court of Appeal 54.8% of criminal decisions and 40.4% of civil decisions were overturned. Another problematic issue is the length of time proceedings take in criminal matters of first instance. For example, in Narva City Court the average duration of criminal proceedings in 2005 was 246 days, i.e. more than 8 months, and the average duration of civil proceedings was 384.6 days, i.e. more than a year.

2005 can be considered a breakthrough year in the battle against police corruption. The Security Police charged the Chief Superintendent of the Central Criminal Police with accepting a bribe, misuse of official position, conducting unlawful surveillance activities and committing a drug-related crime. The police themselves have also begun to decisively clear their ranks of corrupt officials, demonstrated by active and successful internal controls. Almost thirty patrol officers from the North Police Prefecture are suspected of accepting bribes or gratuities. This shows the serious and active attitude that the police have taken towards the problem of corruption, but unfortunately also refers to the dismal extent of corruption in the police force.<sup>4</sup> Unfortunately, the number of officers in the police force has dropped significantly, thus also decreasing general internal

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<sup>3</sup> See  
<http://www.kohus.ee/orb.aw/class=file/action=preview/id=20039/Kohtute+statistika+2005+kodulehele.pdf>

<sup>4</sup> See Security Police of the Republic of Estonia: annual review 2005, pp 24-25.

security. Another important reason for the lack of officers, in addition to bribery cases, is the low salaries.

A new trend has appeared since the accession of Estonia to the European Union – Russia wishes to use local Russian organisations and parties in the European Parliament and elsewhere in the foreign political interests of Russia to influence the domestic political situation. As a whole, Russian foreign policy became even more rigid in 2005 – especially towards its closest neighbours (the CIS and the Baltic States).<sup>5</sup>

### **Protecting Human Rights in the Estonian Defence Forces and the National Defence League**

Section 124 of the Constitution of the Republic of Estonia stipulates that Estonian citizens have a duty to participate in national defence on the basis of and pursuant to the procedure provided by law. A person who refuses to serve in the Defence Forces for religious or moral reasons has a duty to perform alternative service pursuant to the procedure prescribed by law. Persons in the Defence Forces and alternative service have all constitutional rights, freedoms and duties, unless otherwise prescribed by law due to the special interests of the service.

The duration of military service is often determined by the time when the person eligible is called up. Those who are called up in January or June usually serve 11 months and those called up in April or October serve 8 months. The final length of military service is determined by the position the conscript is given.

After the Defence Resources Agency was founded on 1 August 2005, it processed 38 misdemeanours during the last five months of the year. Misdemeanour proceedings have been launched for ignoring the duty to appear for military service and for non-appearance when called to medical examinations in the Defence Resources Agency. Proceedings have been terminated on seven occasions (the act either lacked elements of misdemeanour or was terminated as a matter of expedience). 22 people eligible to be conscripted were fined and 9 misdemeanour proceedings are pending. The Defence Service Act prescribes a fine or detention for ignoring the duty to appear for military service and for non-appearance when called to a medical examination. No one has yet been sentenced to detention.

In the call-up round for compulsory military service in 2005, none of the people eligible to be conscripted expressed a wish to replace military service with alternative service, and therefore none of the conscripts were sent to alternative service.

In 2005, 43 members of the Defence Forces received serious bodily injury within the Defence Forces (the majority of cases, i.e. 33, were fractures and in 22 cases the injury was inflicted during the performance of service duties), 18 of whom were conscripts and 25 of whom regular members of the Defence Forces.

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See Security Police of the Republic of Estonia: annual review 2005, p11.

Discussion arose in 2005 about creating a professional army for the Republic of Estonia and replacing the service in the Defence Forces with a professional army.

The reserve forces of the Defence Forces are mostly covered by the National Defence League. In 2005 the National Defence League had 9980 members and its special organisations had the following number of members: the boys' organisation Young Eagles – 4019; the girls' organisation Home Daughters – 3788; and the Women's Voluntary Defence Organisation – 1051. The total membership of the National Defence League together with special organisations was 18,838 at the end of 2005.

An important aspect in 2005 for ensuring internal security in Estonia was the National Defence League's cooperation with the police in helping to maintain public order by providing assistant police officers, participating in searches for missing persons and organising an assistance training course under the guidance of the Police Board for assistant police officers of units in November 2005. According to the cooperation agreement signed with the Rescue Board, the NDL also participated in county crisis management training exercises and helped local rescue services extinguish forest fires.

## **Data Protection**

Section 42 of the Constitution of the Republic of Estonia stipulates that state agencies, local governments and their officials shall not gather or store information about the beliefs of an Estonian citizen against that citizen's free will. Section 43 of the Constitution stipulates that everyone has the right to confidentiality of messages sent or received by him or her by post, telegraph, telephone or other commonly used means. Exceptions may be made by court authorisation to combat a criminal offence, or to ascertain the truth in a criminal procedure, in cases and pursuant to the procedure provided by law. Section 44 of the Constitution provides that everyone has the right to freely obtain information disseminated for public use. Paragraph 2 provides that all state agencies, local governments and their officials have a duty to provide information about their activities, pursuant to the procedure provided by law, to an Estonian citizen at his or her request, except information whose disclosure is prohibited by law, and information intended exclusively for internal use. Paragraph 3 provides that an Estonian citizen has the right to access information about him- or herself held in state agencies and local governments and in state and local government archives, pursuant to the procedure provided by law. This right may be restricted, pursuant to law, to protect the rights and freedoms of others or the confidentiality of a child's parentage, and in the interests of combating a criminal offence, apprehending a criminal offender or ascertaining the truth in a criminal procedure. Citizens of foreign states and stateless persons who are in Estonia share the rights specified in paragraphs two and three of this section equally with Estonian citizens, unless otherwise provided by law.

Acts regulating data protection:

1. The Personal Data Protection Act, whose purpose is the protection of the fundamental rights and freedoms of natural persons in accordance with public interests with regard to the processing of personal data.

2. The Public Information Act, whose purpose is to ensure that the public and every individual has the opportunity to access information intended for public use, based on the principles of a democratic and social rule of law and an open society, and to create opportunities for the public to monitor the performance of public duties.
3. The Databases Act, which provides for the procedure for possession, use and disposal of state and local government databases, for the general principles of maintenance of databases belonging to the state, local governments and persons in private law, and for release and use of their data.
4. The Information Society Services Act, which provides for the requirements for information society service providers, the organisation of supervision and liability for violation of this Act.

In the Republic of Estonia the Data Protection Inspectorate carries out national monitoring of the processing of personal data, the maintaining of databases, access to public information and other tasks specified in acts or in supporting legislation.

Constant attention to the scope and lawfulness of personal data processing in 2005 contributed significantly to increasing people's awareness. The Data Protection Inspectorate sees two problematic issues in implementing the requirements of personal data processing: the lawfulness of data processing and guaranteeing the necessary level of security in data processing. The Data Protection Inspectorate received 41 complaints based on the Personal Data Protection Act, 11 of which were justified. Most of the established offences concerned the enabling of access to personal data or forwarding of such to third parties without legal basis, which in a civil law relationship can only occur with the consent of the data subject and in a public law relationship with authorization arising from law. Despite the fact that in some established offences access to personal data was allowed to an unlimited number of third parties via the Internet, it mostly concerned so-called regular personal data (name, email address etc) and only concerned the personal data of one or a small number of data subjects. In these offences, a distinction is made between offences committed due to human error or due to lack of awareness. In the case of the former the processors of personal data reacted immediately and eliminated the error, but in the case of the latter the processors were not aware of the offence and were issued with an injunction to guarantee the rights of the data subject. Two of the offences concerned the ignoring of the requirements for personal data processing, i.e. forwarding personal data to third parties or allowing access to them without legal basis.

One of the most problematic cases in 2005 was a dispute with the Ministry of Social Affairs regarding the creation of a national registry of communicable diseases. The Data Protection Inspectorate said that the data to be collected exceeded the scope of delegation provided in law (according to the Communicable Diseases Prevention and Control Act, the collection of personal data is allowed only for communicable diseases spread by epidemic and those that are especially dangerous). The Ministry of Social Affairs initiated an amendment to the act and a delegation provision was added to it so that the Government of the Republic could establish a list of diseases for which the collection of personal data in a registry was allowed. There were also problems with the registries for

tuberculosis and cancer. An attempt by the Statistical Office of Estonia to take over the register of taxable persons in full initiated a dispute which resulted in the Data Protection Inspectorate issuing an injunction to the creators of the database, obligating them to ensure the satisfaction of personal data protection requirements.

In addition, the Data Protection Inspectorate received complaints about breaches of rights specified in the Public Information Act.

The activities of the Republic of Estonia in the transposition of European Union legislation and participation in various projects are important. As Estonia is about to join large EU information systems (Schengen, Europol, the Customs Information System etc) and this cannot be done before national parts of the information systems have registered the processing of sensitive personal data in the Data Protection Inspectorate, the monitoring activities of the Inspectorate also increase considerably.

### **Protecting Human Rights in Penal Institutions**

At the end of 2005 there were seven prisons in Estonia, in Tallinn, Tartu, Murru, Pärnu, Viljandi, Ämari and Harku. Of these, Viljandi detains juvenile prisoners, Harku detains female prisoners and the rest detain male prisoners. The transition from a camp-type prison system to a cell-based prison system in Estonia began with the building of Tartu prison. The cell-based system better supports efforts to re-socialize prisoners.

Ever since the regaining of independence in 1991, there has been constant discussion about the need to reduce the number of prisoners in Estonia, but unfortunately it still remains high. This high number also depends on the high total of registered crimes (52,916 crimes were registered in Estonia in 2005). As of 21 October 2005 there were 4463 prisoners, including those under preliminary investigation. The number of prisoners per 100,000 citizens was 333 (the population of Estonia being 1.34 million people). Of the total number of prisoners, 23.1% were under preliminary investigation, 3.9% were women, 2% were children and young people and 36.4% were foreigners.<sup>6</sup>

The Imprisonment Act provides the procedure for and organisation of imprisonment, detention and custody pending trials and the definition and conditions of prison service. Various socially oriented projects have been developed and implemented in prisons in order to reduce the risk of offenders returning to prison. Unfortunately, they do not include any projects directed at prisoners' legal awareness (only one pilot project in Tallinn prison was directed at increasing this). The Imprisonment Act provides that the objective of application of imprisonment is to help prisoners lead law-abiding lives and to defend public order. Leading a law-abiding life requires knowledge of current laws and acts because there are still people being released in Estonia who were sent to prison before the Republic of Estonia regained its independence in 1991.

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<sup>6</sup> International Centre for Prison Studies, Prison Brief for Estonia,  
[http://kcl.ac.uk/depts/rel/icps/worldbrief/europe\\_records.php?code=135](http://kcl.ac.uk/depts/rel/icps/worldbrief/europe_records.php?code=135)

The European Court of Human Rights, with its judgment on Alver v. Estonia (application no. 64812/01) of 8 November 2005, held that the Republic of Estonia had violated Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. The Court pointed out that Rein Alver was detained on remand for approximately three years and seven months before he was sent to Murru prison to serve his sentence. His complaints concern his detention in Tallinn Central Prison and Jõgeva Detention House, where lack of space inside the cell was combined with limited freedom of movement outside the cell. Alver was diagnosed with tuberculosis more than two years after his arrest and it therefore seems likely that he caught the disease during his stay in the penal institution. The Court concluded that the conditions of the applicant's detention, in particular the overcrowding, inadequate lighting and ventilation, impoverished regime, poor hygiene conditions and state of repair of the cell facilities, combined with the applicant's state of health and the length of the period during which he was detained in such conditions, were sufficient to cause distress and hardship of an intensity exceeding the unavoidable level of suffering inherent in detention. The Republic of Estonia had to pay Alver 3000 euros for non-material damage.

### **Protecting the Rights of the Child**

The Child Protection Concept was completed in 2004 and its purpose is to create a comprehensive system for organising the protection of children's rights. While developing the concept it became clear that a new child protection act was needed. The current Child Protection Act has been in force since 1 January 1993 and is too declarative and not an efficient tool for child protection officials and other specialists who work with children. In 2005 the draft for a new child protection act was started, the main purpose being to make the act usable for specialists working with children, for the children themselves and for their parents. The new draft places key emphasis on protecting the rights of children in everyday life, but not enough attention has been devoted to children whose freedom is restricted or who are located in custodial institutions.

Minors committed 3768 offences in 2005, which represents a significant increase on 2004 when the number of offences committed by minors was 3201. It is imperative that efficient means for prevention of offences be found in cooperation with the state and non-profit organisations, the leading role lying with state and local governments.

In 2005, a lot of attention was paid to children as victims of crimes and society paid more attention to protecting children in criminal proceedings, both as offenders and victims. Minors were the objects of crimes registered in 2005 on 441 occasions (485 in 2004). The significant increase in the occurrence of satisfaction of sexual desires with a child (under 14 years of age) was alarming: in 2005 the number of such children was 107 (78 children in 2004), an increase of 29%.

### **Rights of Disabled People**

Paragraph 4 Section 28 of the Constitution of the Republic of Estonia stipulates that families with many children and persons with disabilities shall come under the special

care of state and local governments. The implementation of this provision is well regulated legally at state and local government level but does not function systematically due to constant underfunding and incompetent reforms. Today we lack a system for the efficient protection of the rights of disabled people during legislative drafting, because there is no requirement for ex-ante analysis in order to establish the effect and impact of the legislation in question on disabled people.

To this day we have no analysis for the comprehensive transposition of the EU Council directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. The purpose of this directive, according to Article 1, is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting the principle of equal treatment into effect in Member States.

Article 5 of Council directive 2000/78/EC provides reasonable accommodation for disabled persons:

In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities, reasonable accommodation shall be provided. This means that employers shall take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. This burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the disability policy of the Member State concerned.

Estonia has not yet systematically developed such disability policy, which is why it is necessary to further analyse the opportunities and requirements for the implementation of the directive.

The implementation of Paragraph 4 Section 28 of the Constitution of the Republic of Estonia has to be carried out by means of active measures and with the presence of efficient legal protection measures. Article 15 of the amended and improved European Social Charter provides for the right of persons with disabilities to independence, social integration and participation in the life of the community. The protection of this right is not sufficiently guaranteed in Estonia, as among other things we lack an efficient system for the realization with legal measures of the rights specified in the Charter.

State institutions, local governments, courts and public institutions have to guarantee relevant information and counselling for disabled people in order to prevent problems being aggravated, unjustified expenses being incurred in future and people being forced to run back and forth between different institutions.

The solution is to create and implement a functioning national system for the social and legal protection of disabled people. All local governments have to ensure the provision of so-called minimum services so that too great a difference does not arise between the services offered by different local governments.

The creation of such a system would provide equal opportunities for people with special needs and disabilities throughout the country.

### **Rights and Status of Refugees**

11 people applied for asylum in Estonia in 2005, and while none were granted refugee status, one foreigner was issued with a residence permit within the framework of additional (subsidiary) protection. Since 1997, when the Refugees Act entered force, a total of 105 people have applied for asylum in Estonia, 76 of whom were men, 13 women and 16 children. The 2005 applications for asylum came from people from Iraq, Sierra Leone, Turkey and Russia, and the country of origin of one person was unknown. Accommodation of asylum seekers is handled by the Illuka Reception Centre for Asylum Seekers, which has 35 places.

On 14 December 2005, the Riigikogu passed the Act on Granting International Protection for Foreigners, which entered force on 1 July 2006 and thus invalidated the Refugees Act. The new act governs the principles of giving international protection to foreigners, their legal status and grounds for staying in Estonia, and is based on international agreements and European Union legislation. According to the act, international protection is given to foreigners whose refugee status or additional protection status has been established or where it has been established that they belong to a group of people determined by a decision of the Council of the European Union to require temporary protection.

### **Freedom of Religion**

Freedom of religion is protected by Section 12 of the Constitution, which provides that no one shall be discriminated against on the basis of religion, and the incitement of religious hatred, violence or discrimination shall, by law, be prohibited and punishable. Section 40 of the Constitution provides that everyone has the freedom of conscience, religion and thought. Everyone may freely belong to churches and religious societies. There is no state church. Everyone has the freedom to exercise his or her religion, both alone and in community with others, in public or in private, unless this is detrimental to public order, health or morals.

As of 2005 there were 538 registered congregations in Estonia, classified as churches, associations of congregations and individual congregations. There was the Estonian Evangelical Lutheran Church, the Estonian Apostolic Orthodox Church, the United Methodist Church in Estonia, the Estonian Christian Pentecostal Church, the Charismatic Episcopal Church of Estonia, the Apostolic Administration of the Roman Catholic Church in Estonia and the Congregation of the Three-Handed Mother of God of the Ukrainian Greek Catholic Church.

Debate arose in 2005 regarding the need for religious education in schools in order to give students information about the religions of the world. Various pros and cons were

raised in discussions about the issue and a common position that would satisfy students, parents, religious organisations and society as a whole has yet to be found.

In 2005 Tallinn City Court refused to register the Order of the Black Venus, an Estonian satanic congregation, because the entry applied for could not be made in the non-profit associations and foundations register based on the application, as according to the Churches and Congregations Act, a registrar shall not enter a religious association in the register if the activities of the religious association damage public order, health, morals or the rights and freedoms of others. According to the articles of association of the Order of the Black Venus, the congregation unites and serves all the Satanists living in the Republic of Estonia. Uniting and serving all Satanists, the Order has been founded to also unite people with principally criminal intentions. The existence of such an organisation damages public order and the security of the state and the people. This is an association that basically accepts crime as a means for carrying out one's thoughts and beliefs and its purpose is therefore in conflict with the law that provides for criminal liability. Although Section 48 of the Constitution does not directly protect the freedom of association for religious purposes, we should take the position that the registration of an association or organisation referred to in Paragraph 3 Section 48 of the Constitution is also impossible if such an association is created for religious reasons.

## Rights of National Minorities

Although there are representatives of more than a hundred nationalities living permanently in Estonia, only part of them feel that they belong to a certain ethnic group on the basis of their wish to satisfy their cultural, linguistic, educational, informational and religious needs. For example, the census conducted in 2000 in Estonia gave, according to voluntary national self-determination by the people surveyed, the following overview of the numbers of different ethnic groups.

Nationality/ County	Estonians	Russians	Ukrainians	Belarussians	Finns	Tatars	Poles	Jews	Germans	Other nationality or nationality not specified
Harju County	306 850	171 009	17 789	9 748	3 594	1 619	1 156	1 679	691	11547
Hiiu County	10 245	105	20	10	15	0	2	2	2	39
Ida-Viru County	35 917	124 961	4 810	5 237	2 580	637	529	199	493	4339
Jõgeva County	34 334	2 971	267	98	317	8	11	2	34	255
Järva County	36 157	1 299	444	60	410	8	42	4	72	285
Lääne County	25 011	2 589	406	143	143	31	10	8	36	267
Lääne-Viru County	57 148	7 318	940	417	1 115	55	91	19	65	633
Põlva County	30 866	1 357	157	28	136	4	2	0	11	134
Pärnu County	79 249	8 509	1 205	359	619	71	83	39	141	937
Rapla County	34 874	1 540	300	153	340	8	12	2	50	314
Saare County	35 268	383	79	28	65	1	3	1	6	117
Tartu County	122 954	20 894	1 520	567	1 565	102	160	162	155	1523
Valga County	29 525	4 467	511	233	201	20	43	13	55	728
Viljandi County	54 325	2 108	382	103	584	11	37	9	46	369
Võru County	37 496	1 668	182	57	153	7	12	6	13	288
Total in Estonia	930 219	351 178	29 012	17 241	11 837	2 582	2 193	2 145	1870	21755

**Source:**

**Statistical Office database (population by place of residence and nationality).  
Census 2000**

It must be pointed out that ethnic diversity does not only characterise the ethnic groups listed in the table but also such socially active groups as Lithuanians, Latvians, Koreans, Chuvash, Hungarians, Roma, Georgians, Azerbaijanis, Armenians, Moldavians and others. There are currently 180 registered national cultural societies, associations and organisations in different regions of Estonia, which function as non-profit associations. However, the National Minorities Cultural Autonomy Act gives the rights of national minorities to only four ethnic groups – Russians, Jews, Swedes and Germans.

Nevertheless, both ethnic and other national minorities are widely active in the fields of culture, education and religion. This helps promote their national self-determination and culture and present the language and cultural heritage of the ethnic group to Estonians and people of other nationalities who live in Estonia.

They use various opportunities to present their culture – they organise festivals, lectures, conferences, exhibitions and seminars, make TV and radio programmes, publish books and information bulletins, and create websites. These activities make Estonian society more aware of cultural differences and more tolerant towards different cultures.

Today, only the Ingrian Finns have organised themselves according to the Cultural Autonomy Act, which gives the national cultural minority group a legal status and enables them to communicate directly with the state and apply for funds for their activities from the state budget.

National cultural societies have mostly gathered under four non-profit umbrella organisations: the International Union of Associations of National Cultural Societies LÜÜRA (31 societies), the Estonian Union of National Minorities (20 societies), the Union of Slavonic Educational and Charitable Societies in Estonia (42 societies and 33 groups) and the Roundtable of National Cultural Societies of Ida-Viru County (28 societies). But there are also national cultural societies that exist outside these associations and unions.

The national programme “Integration in Estonian Society 2000-2007” includes a sub-programme that focuses on the education and culture of ethnic minorities.

The Non-Estonians’ Integration Foundation supports the high priority activities specified in the national programme through various competitions, including the project competition of national cultural societies and the project competition of Sunday schools that are organised by national cultural societies.

The minimum financing for managing community centres is allocated to national cultural societies from the state budget by distributing special funds through contracts signed between the societies and the Non-Estonians’ Integration Foundation.

In addition, several local governments have financed the work of national cultural societies from the local budget.

Depending on their priorities, national minority organisations and their associations launch and organise various projects and these are financed by the Cultural Endowment of Estonia, the Open Estonia Foundation, the Gambling Foundation, the Ministry of Culture, the Bureau of the Minister of Population Affairs, the countries of their ethnic origin, and international organisations.

### **Education of National Minorities**

The priority of most national cultural societies and organisations is national education, i.e. teaching their language, history, cultural history and traditions and providing religious education.

Today, the only national minority who can receive education in its mother tongue, besides Russians, is Jews at the Tallinn Jewish School, where in addition to the regular upper secondary school cycle students can also study Hebrew, geography, the history of the Jewish nation, Jewish traditions, cultural history, songs and dances during their 12 years of study. The study programmes, didactic tools and teachers’ in-service training in national education are provided by the State of Israel.

In addition to studying, the students of the Jewish school can participate out of school hours in various clubs and events, most of them characterised by national themes. During winter and summer holidays the students can go to Jewish religious or non-religious children’s and youth camps both in Estonia and in other European countries.

The Tallinn German Gymnasium can also be called a national school to a certain extent.

Other national organisations that represent various ethnic groups, even such large ones as Ukrainians, Belarusians and Ingrian Finns, have to satisfy their educational and cultural needs through national Sunday schools. The programmes of these Sunday schools include classes on language, history, traditions, national musical culture and religion.

Quite a diverse network of religious and non-religious Sunday schools has developed in Estonia, including those for children or adults or mixed schools for both, which make up approximately 40 schools. The objectives of these schools differ both within the national groups and between ethnic societies.

The activities of the small Swedish societies show a greatly ethnographic orientation. To a certain extent this is also characteristic of Roma societies.

Some Finno-Ugric societies (the Mordvins, the Chuvash et al) try to fill in linguistic as well as cultural and ethnographic blanks with their work in Sunday schools.

We can therefore make the general observation that, on the one hand, such a variety of target groups and tasks, priorities, objectives and events makes the creation of a unified formal methodological and financial basis for Sunday schools and national coordination of the work of Sunday schools difficult. On the other hand, such diversity determines the colour of Estonian multicultural society.

This is the reason why two national schemes for supporting national minorities are currently being legally determined.

The first scheme enables the teaching of the mother tongue to a group of students for up to two hours a week as extracurricular work financed by public funds if this group comprises at least six representatives of one nationality. The national society has to define the study programmes, textbooks and didactic methods.

The other scheme provides national financial support to the activities of Sunday schools, on the condition that they follow formal legal requirements upon registering the schools and drawing up accounts. Both the first and the second scheme are carried out by a decision of the government and the responsibility for developing the schemes and for their functioning lies with the Estonian Ministry of Education and Research. As both schemes are experimental, only after some time has passed will we be able to tell if either or both of them has proven to be viable.

Today, Estonia is about to embark on a national reform of Russian education. Starting from 2007 there will bring a gradual transition from the Russian to the Estonian language for upper secondary education.

Creating the conditions for the high-quality education of national minorities is one of the main aims of the school reform. Therefore, the following aspects must be taken into account in the implementation of the reform in order to protect the rights of national minorities and create equal opportunities for high-quality upper secondary education:

- Personnel, methods, financial and other means for the implementation of the school reform shall be guaranteed.
  - The organisation of Estonian language camps shall be continued and other forms of active and efficient teaching of the official language to school children and other groups of people shall be developed.
  - The network of schools that use language immersion methods shall be further developed.
  - All the participants shall be given relevant and reliable information about the content and results of the school reform at the right time.
  - In addition to the school reform, the development of the network of national Sunday schools as well as other forms of study whose purpose is to partly solve the problem of the education of national minorities shall be continued.
  - In the school network, the European experience of teaching tolerance and of ethnic diversity shall be used, as well as local national societies' methodological treatments in the field of national cultures and traditions.

### **Access to Information**

If we analyse the current situation of national minorities' access to the channels of the press and electronic mass media as well as to public and commercial regional and national information, we can draw the following conclusions:

- The quality and number of mass media channels that objectively and quickly cover the events that happen in Estonia and abroad in the languages of national minorities is limited and requires attention and state support.
- Quick access to all forms of regional and national information must be guaranteed, including in Russian if need be.
- Providing legal assistance in the field of human rights and the rights of national minorities both at national and local levels is one of the conditions for ensuring equal rights and the development of a multicultural Estonian society.

### **Participation in the Development of Civil Society**

One way to protect the rights of national minorities and develop international dialogue is to develop Estonian civil society and promote active participation on the part of national minorities.

The following activities are useful in this respect:

- Organisational, legal, financial and methodological assistance for the creation and development of non-profit organisations that contribute to the development of multicultural civil society at regional level.
- Organisational, financial and methodological support for the activities of national cultural associations that work towards preserving and developing the culture of national minorities and towards tolerant international cooperation and mutual understanding.
- Support for the activities of local national cultural societies that work towards developing international dialogue and mutual influence between Estonian culture and the culture of national minorities.

- Participation of national minorities in cross-border regional cooperation and in cooperation between sister local governments, and also by sharing local experiences in developing international dialogue to the countries of ethnic origin of Estonia's national minorities.

## **Discrimination**

Differences in the socio-economic development of Estonian regions, the limitations on the movement of workforce in the regions of national minorities and the low participation of national minorities in political decision making lead to occurrences of discrimination. Therefore, in order to minimize and prevent the causes of work-related discrimination it is recommended:

- to launch and implement projects by using European Union structural funds and other EU funds that are directed at reducing the unemployment rate of the region and at increasing business activities;
- to support the activities of local governments and non-profit organisations that are directed at increasing the awareness of local people as well as business and social activities;
- to carry out activities that help to increase the competitiveness and activity of local young people;
- to include investments that help to reduce unevenness in regional development;
- to include the representatives of national minorities in decision making processes.

## **Racial Intolerance and Xenophobia**

The globalisation of the world economy, the development of international cooperation that comes with the enlargement and integration of the European Union and the global threat of terrorism affect the spread of racial intolerance and xenophobia in Estonia.

In connection with this, it is necessary to determine the fields where cooperation is to be carried out with national minorities, including with immigrants who have come here since the accession of Estonia to the European Union. This would decrease the threat of hatred between nations.

Possible directions for action should include the following:

- To more actively use the European Union's experience in protecting human rights and the rights of national minorities in the fight against extremism and racism, including manifestations of extremism in everyday life.
- To support the Estonian non-profit organisations of national minorities in forming international connections and developing cooperation.
- To contribute to the creation and development of an efficient cooperation network between non-profit organisations of national minorities, local governments and national structures, in order to ensure quick reactions in the event of an occurrence of racial intolerance or xenophobia.
- To provide constant sociological monitoring, and to observe the efficiency of the activities of regional integration policies.

- To teach the leaders of national associations, local government officials and teachers about the practical issues of legislative drafting in the field of human rights and the rights of national minorities, and to teach them to act in the event of racial intolerance and xenophobia.
- To prepare and disseminate information materials and methodological and didactic tools directed against extremism, racism and xenophobia.
- To provide co-financing for international cooperation from the budgets of Estonian national minority organisations for the projects presented in the framework of European Union programmes in the field of human rights and the rights of national minorities.

## **Gender Equality**

The average population of Estonia in 2005 was 1,346,097, of whom 619,949 were men and 726,148 women. The male-female ratio is different in different age groups. Among those younger than 30 years of age there are more men than women, but among those older than 30 there are more women than men due to the earlier deaths of men.

The shorter lifespan of men is due to trauma, injury, intoxication and cardiovascular disease.

A longer lifespan is considered one of the main objectives of the national health system and the health of the people. Gender differences in estimates of one's own health exist in Estonia. After 40 years of age only 40% of women and men consider their health good or very good. Disability-adjusted life years express the loss in the population's health, and this single figure sums up both the years of life lost and the years lost due to disability. An analysis of mortality data by the method of years of life lost points out a significant gender difference. Before the age of 65 Estonian men lose 2.7 times more years from their lives than women. On the other hand, women have twice as many years lost due to disability than men.

Equality of treatment for men and women is one of the main human rights and the level of implementation of this principle demonstrates the level of welfare in a country both in terms of economy and society. From 1999 to 2004, both the legal framework and research were launched for the improvement of gender equality. The first statistical collections about the situation of men and women and articles analysing manifestations of gender inequality were published. In 2000, Ariadne Lõng, the academic magazine of gender studies, was founded and began to be regularly published. Cooperation between the Estonian Women's Studies and Resource Centre and the Tallinn Pedagogical University (TPU) saw the speciality of gender studies opened in TPU's Department of Sociology in the 2003/2004 academic year.

In 2004, Estonia joined the European Union framework programme for promoting gender equality, and a Phare partnership programme was launched to train public officials.

On 7 April 2004, the Riigikogu passed the Gender Equality Act, which regulates discrimination on the grounds of gender and undertakes to promote gender equality and decrease inequality. Constitutional prohibitions of discrimination and equal rights *de jure*

are indispensable, but not sufficient if there are no sufficient means to guarantee the equality of men and women. Estonian legislation has not been analysed from the aspect of gender. A gender equality department was created in the Ministry of Social Affairs and a gender equality commissioner was appointed. Difficulties in implementing the act have arisen due to the limited experience of officials, but an even greater obstacle is society's negative attitude towards gender equality issues.

Gender equality begins with politics and politics begins with parties. A study of the 2005 local government elections analysed, in terms of gender, the top three positions of the lists of candidates of two municipalities in each county plus the cities of Tallinn and Tartu.

In the top (i.e. best) three positions on the lists there were 363 male and 166 female candidates. As a result, 276 men and 63 women were elected (the top three positions on the lists of those elected).

As there are few women among party leaders, it is clear that in making important decisions, including the drawing up of lists of candidates, the opportunities for women to participate in decision-making are limited due to their low numbers. Women make up 20% of the Riigikogu. Among county governors there is one woman and 14 men. In the Estonian Government the proportion of women has fluctuated, but on average it is 12.5%.

There is a clear difference in the occupational application of men and women. There are more women among top specialists, medium-level specialists and officials with a share of 70 to 90%. Women's share among top executives and senior officials fluctuates between 30 and 40%.

In the supervisory boards of major Estonian companies, the situation is as follows:

Eesti Energia (Estonian Energy): 8 men, no women.

Eesti Põlevkivi (Estonian Oil Shale Company): 8 men, no women.

Eesti Raudtee (Estonian Railways): 8 men, no women.

Tallinna Sadam (Port of Tallinn): 7 men, 1 woman.

Tallinna Lennujaam (Tallinn Airport): 4 men, 2 women.

The salary of women continues to form 75.7% of the salary of men on average. This is transferred on to the family. There is a clear difference in the occupational application of men and women. According to different data, between 2 and 5% of women are entrepreneurs while it is between 8 and 10% among men. The issue of combining work and family life has not been solved and women also have a heavy load of housework. In the main structure of time use, women are busy with housework 18.1% and men 10.9% of the time. Gender inequality manifests itself especially strongly at the family level. It was found that while men devote more time to paid work than women as a rule, the contribution of women to unpaid housework is much higher and as a result the amount of free time is also much smaller for women than for men during their lifetime.

A society where men and women cannot apply their potential equally due to gender stratification and exclusion is not capable of development and is not socially secure, competitive or sustainable. A life arrangement that is gender balanced requires

legislative, party political and other relevant means from the state, and activity and participation from society.

## **Discrimination**

Section 12 of the Constitution stipulates that everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds.

When Estonia joined the European Union it undertook to transpose Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. No comprehensive analysis has been carried out for these directives, which is why transposition of the directives is inadequate. The Employment Contracts Act of the Republic of Estonia was amended with relevant provisions prohibiting unequal treatment and an opportunity was added to solve unequal treatment disputes on the basis of the procedure provided for in the Chancellor of Justice Act. But these additions are insufficient, because people working on the basis of contracts for services and as self-employed people working on the basis of contracts for services, also officials are left without legal protection. There is no efficient regulation that would obligate companies to review their activities in order to make sure that they do not discriminate against anybody directly or indirectly when determining salaries or hiring, selecting, promoting and dismissing people or providing in-service training for them. The rules for preventing discrimination specified in the directives apply in all areas that are concerned with work, from hiring until the end of employment.

## **Freedom of Press**

In 2005 there were at least 1329 periodical or non-regularly published press publications in Estonia as well as two information agencies, one of which with a marginal distribution, 25 private radio stations and the public Estonian Radio with four programme services. There are six radio organisations with national coverage, including one public. There are four television stations and three cable television networks that cover most of the country's densely populated areas. Altogether there are 42 cable television operators in Estonia, only four of which also produce their own programme services.<sup>7</sup> There are approximately 100 companies producing television programme services.<sup>8</sup>

The freedom of the press and the right to freely obtain information disseminated for public use are protected in the Republic of Estonia by Sections 44 and 45 of the Constitution, which provide for the free dissemination of ideas and information and its availability from state agencies, local governments and their officials. There is no

<sup>7</sup> Estonian report "Television across Europe: Regulation, Policy and Independence", EUMAP-OSI, Tallinn 2005, p 210. ([http://www.eumap.org/topics/media/television\\_europe/national/estonia/media\\_est2.pdf](http://www.eumap.org/topics/media/television_europe/national/estonia/media_est2.pdf))

<sup>8</sup> Sources: (1) Estonian Film Foundation (<http://www.efs.ee/>); Ministry of Culture ([http://www.kul.ee/webeditor/files/loomemajandus/03\\_film ja video.pdf](http://www.kul.ee/webeditor/files/loomemajandus/03_film ja video.pdf)).

censorship. According to the 1994 Broadcasting Act, reception from other countries and retransmission of television programmes and programme services is free, and people who provide information are protected from public disclosure unless they wish to be disclosed. It is prohibited, however, to transmit programmes “whose content is immoral or in conflict with the Constitution or laws”.

Broadcasting organisations are privatized, except Estonian Radio and the Estonian Television, which are public organisations. According to the Broadcasting Act, they are independent in their composition of programme services. Both have programme services and also isolated programmes in the languages of national minorities. One of the programme services of Estonian Radio is entirely in Russian, and it also transmits regular radio programmes in Russian, Ukrainian, Belarusian, Armenian and Yiddish<sup>9</sup> as well as news in the language of the Estonian island of Kihnu<sup>10</sup>. In Estonian Television about 4% of total programme services comprises programmes in Russian, including a daily Russian news programme<sup>11</sup>. There is also a non-regular programme series in the Võro language<sup>12</sup>. Finnish television programme services are available in North Estonia and cable networks transmit all television programme services that are received from satellite and whose retransmission rights have been granted to cable operators, including Russian television programme services.

There is no special law governing the press in Estonia. The press regulates itself and the state accepts this. The association of newspaper publishers called the Estonian Newspaper Association and its Press Council<sup>13</sup>, which unite 42 newspapers, as well as the Estonian Press Council (ASN)<sup>14</sup> help to establish ethical responsibility and good practice in the Estonian press. On the initiative of the Estonian Newspaper Association a code of ethics was developed for the Estonian press in 1997, which was officially joined by the Association of Estonian Broadcasters and which forms the basis for self-regulation.

The dissemination and selling of press publications is not restricted, except in cases specified in the Act to Regulate Dissemination of Works which Contain Pornography or Promote Violence or Cruelty. It is prohibited to display publications with erotic content at points of purchase and to sell them to children. Estonia follows a liberal policy in the regulation of the press: the foundation of a publication does not require a licence, permission or registration, and this also applies to printing services and the dissemination of press publications.

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<sup>9</sup> Source: Radio 4 .

<sup>10</sup> From autumn to spring: 5 minutes every day, except Saturdays and Sundays (heard only in Pärnu and Kihnu).

<sup>11</sup> Estonian report “Television across Europe: Regulation, Policy and Independence”, EUMAP-OSI, Tallinn 2005, p 205. ([http://www.eumap.org/topics/media/television\\_europe/national/estonia/media\\_est2.pdf](http://www.eumap.org/topics/media/television_europe/national/estonia/media_est2.pdf))

<sup>12</sup> Half an hour a week, periodically (during autumn, winter and spring).

<sup>13</sup> Founded in 2002.

<sup>14</sup> Founded in 1991.

With the exception of the option of initiating litigation, the government still has no constitutional means for putting pressure on the press, and the government has kept from crossing such legal boundaries.

Before, there were no sufficient legislative grounds in Estonia for the right of every citizen (including journalists) to obtain information from state and local government agencies. After we pointed out in the 1999 overview of human rights that although the Constitution provided for this right there was no law to organise and govern the issue, the law was passed in 2000. The concept of state secrets is specified in the law but business and company secrets remain undetermined. In a 1998 survey conducted by the Estonian Newspaper Association, journalists expressed the opinion that officials act too much on whim when providing information. There are no concrete rules on whose basis public information should be provided. The subjective whim of information holders is greater in local government agencies. Journalists were also worried about some of those state or local government officials interviewed who demanded that journalists present them with the texts of the interviews for review before being sent to print.

As the rights of journalists and the boundaries of their freedom of speech are not determined by law, these issues are resolved by the editorial offices themselves, depending on their political or other priorities. However, there are no known cases since 1999 of journalists being dismissed due to pressure from a party.

In the 1999 overview of human rights, the Institute of Human Rights referred to the fact that, in conflict with the practice common throughout the rest of the world, the legislation of the Republic of Estonia enabled the declaration of a journalist accused of slander by a public figure a criminal. This provision of the Criminal Code has since been abolished and the matter is mainly governed by the Law of Obligations Act; criminal liability only applies in the case of contempt of court. The only time the matter of a convicted journalist went through all the court instances and reached the European Court of Human Rights ended with the journalist still being found guilty.

No journalist has been given a real prison sentence in Estonia.

The **freedom of the press** is almost absolute in Estonia and forms the basis for the state's media policy (e.g. the speech given by Raivo Palmaru, Minister of Culture, during the presentation of the Estonian publication of the Open Society Institute (OSI) report "Television across Europe" on 14 December 2005). On the other hand, freedom of the press does not in itself guarantee **freedom of expression** for all members of society. Not all parties to a public discussion are able to express their ideas in public equally; some are often ignored by the general media. The criteria for the selection of material is not publicly known and this leaves room for bias. Therefore, despite the large number of publications per population of 1.5 million, in conditions where the media is monopolizing the choice of where to make one's position public is not very wide. For example, one media group alone owns 92.5% of one of the two biggest daily newspapers, 50% of a national evening newspaper, 50% of one of the biggest magazine publishers, 100% of a popular television station, 32% of a national radio station (plus 5 more radio stations) and 100%, 56%, 50%, 50% and 42% respectively of five county newspapers. This is because an efficient mechanism for controlling monopolization and relevant legislation is lacking in the country. The best example of the "levelling" of certain social groups is the ignoring

of the Estonian Press Council (ASN), founded as a mechanism for the self-regulation of the media, by a large part of the press: the ASN does not exist, is not written about and is not communicated with, and journalists are told not to respond to ASN's letters. In the case of people from other fields, the system works in a more sophisticated manner, referring to the low importance of the news or to the abundance of material. The problem mostly arises when someone wishes to publish material criticizing the media.

Of all the periodical and serial publications published in Estonia in foreign languages, i.e. 243 (183 newspapers and 60 magazines), 111 (83 newspapers and 28 magazines) were published in the languages of national minorities in 2005. Six newspapers were published in German, two in Finnish and one each in the Seto, Võro and Erzya languages, while the remainder were in Russian. Four magazines were published in Latvian, two in Finnish, one in German and one in Lithuanian (their target groups not being local national minorities) and the rest in Russian.<sup>15</sup> The small number of these publications is due to the fact that, excluding the case of the Russian minority, the national and linguistic minorities and their cultural associations do not have enough funds to publish newspapers and magazines, and as a rule they also lack sufficient financial support from their country of origin. In such a situation, the state should specifically support publications in the languages of cultural minorities.<sup>16</sup>

Type of publication	Estonian	Russian	German	Finnish	Latvian	Lithuanian	Seto	Võro	Erzya	English	Esperanto	Latin	Total
- newspapers	102	34	—	1	—	—	—	—	—	1	—	—	138
- bulletins	347	21	1	—	—	—	1	1	—	5	—	—	376
- serial publications	384	17	5	1	—	—	—	—	1	92	1	1	502
Total newspapers:	833	72	6	2	—	—	1	1	1	98	1	1	1016
In foreign languages:	72	6	2	—	—	—	1	1	1	98	1	1	183
In minority languages of Estonia:	72	6	2	—	—	—	1	1	1	—	—	—	83
- magazines	253	20	1	2	4	1	—	—	—	32	—	—	313
In foreign languages:	20	1	2	4	1	—	—	—	—	32	—	—	60
In minority languages of Estonia:	20	1	2	4	1	—	—	—	—	—	—	—	28
TOTAL:	1086	92	7	4	4	1	1	1	1	130	1	1	1329
In foreign languages:	92	7	4	4	1	—	1	1	1	130	1	1	243
In minority languages of Estonia:	92	7	4	4	1	—	1	1	1	—	—	—	111

Internet access, which has gained enormous popularity and spread extensively throughout Estonia, is freely available and the dissemination of information via the Internet is free to everybody. Wireless and broadband Internet is widespread across the country, including rural areas, and will soon cover the entire country. Regulation of Internet media is based on general principles, as no special laws have been passed for this purpose. Most Estonian radio stations are available on-line, and there are at least 28 such programme services in total.

<sup>15</sup> Source: The Collection Development Department of the National Library of Estonia, The Union of Regional and Minority Languages in Estonia.

<sup>16</sup> Source: The Forum of Estonian Nationalities.

As in other fields, nothing is absolutely correct in the Estonian Internet either, but what is positive is that, as a rule, no prior censorship is imposed. As the liability for comments made in on-line media is regulated by the European Parliament Directive 2000/31/EC<sup>17</sup> on electronic commerce and the Estonian Electronic Communications Act<sup>18</sup> does not address this issue, it is governed by general legislation, and the principle applies that the provider of an on-line service is free from liability if he/she is unaware of the violation of a law<sup>19</sup>. There was a case in autumn 2005 when an Estonian Internet service provider granted web space (with an Estonian domain name) to a fascist group based in Russia. The website published material that promoted national hatred and issued instructions on how to produce bombs. The Internet service provider refused to react to repeated requests from Moscow's human rights organisations to close the website down. The Estonian Institute of Human Rights informed all state agencies, including the Office of the President, of the problem. The authorities warned the service provider that they were aware of the violation of the law and the provider closed the website down. No sanctions or restrictions were imposed on the provider and its rights were not violated.

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<sup>17</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000

([http://europa.eu/eur-lex/pri/en/oj/dat/2000/l\\_178/l\\_17820000717en00010016.pdf](http://europa.eu/eur-lex/pri/en/oj/dat/2000/l_178/l_17820000717en00010016.pdf)), Articles 12 and 14.

<sup>18</sup> Electronic Communications Act (<http://lex.andmevara.ee/estlex/kehtivad/AktTekst.jsp?id=64918>).

<sup>19</sup> The so-called "notice and take down" principle.