



III. OPINIONS ISSUED BY INTERNATIONAL ORGANIZATIONS AND OTHER COUNTRIES REGARDING THE STATUS OF FREEDOM OF RELIGION IN ESTONIA

Introduction

The Republic of Estonia has acceded to a number of international conventions which entail a periodic reporting obligation followed by an assessment by the relevant international organization. Some of these conventions also contain articles related to freedom of religion.

As this part of the report reveals, international organizations have not had criticism for the situation of freedom of religion in Estonia, and indeed there have been no recommendations or comments made regarding compliance with relevant articles of these conventions.

This part of the report deals with only the conventions and acts under international law regarding which Estonia has submitted periodic reports and which the relevant organizations have evaluated (this subsection thus does not pertain to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union). Of course, the list is not exhaustive, but it should provide a brief overview of the relevant documents and developments.

Only the most recently submitted reports and assessments regarding compliance with conventions are covered below. All of the reports submitted and opinions and concluding observations received, along with the relevant conventions, are available in English and (for the most part) Estonian on the website of the Ministry of Foreign Affairs, www.vm.ee/?q=node/10128.

The second half of this section of the report deals with the US State Department and Pew Research Center think tank's observations regarding freedom of religion in Estonia. It also provides a brief overview of some examples of international activities in the last years that have impacted legal acts related to freedom of religion in Estonia.



3.1. CONVENTIONS AND IMPLEMENTATION THEREOF

3.1.1. International Covenant on Civil and Political Rights (1966)

3.1.1.1. Primary articles of the Covenant pertaining to freedom of religion:

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 27

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 practise their own religion, or to use their own language.

3.1.1.2. The Third Periodic Report of the Republic of Estonia under UN International Covenant on Civil and Political Rights on the application of this Covenant (2009)

Estonia submitted the report to the UN Human Rights Committee in January 2009.

In connection with Article 18 of the Covenant (paragraphs 465-483 in the report) an overview of pertinent legislative provisions was given (Section



11 of the Republic of Estonia Child Protection Act, Section 4 of the Education Act, Section 3 of the Basic Schools and Upper Secondary Schools Act, the Churches and Congregations Act, Sections 151, 152, 154 and 155 of the Penal Code) and information was provided on registered religious societies, theological instruction in higher educational institutions and training of religion teachers.

Further, the report treated the issue of **alternative service as set forth in the Defence Forces Service Act**. It was noted that under the Act, the duration of compulsory military service is from 8 to 12 months, while the duration of alternative service is from 12 to 18 months, adding that alternative service of such duration has never been applied. The report noted the Committee's concern that the duration of alternative service for conscientious objectors may be up to twice as long as the duration of regular military service. It was explained that pursuant to Regulation No. 241 of the Government of the Republic of 25 July 2000 (establishment of duration of compulsory military service and alternative service), the general duration of compulsory military service is 8 months or 11 months (in certain cases). Pursuant to the Regulation, the duration of alternative service is 16 months. The reason given in the report was the following: *"Such difference arises from the need to ensure equality of the compulsory military service and alternative service by work volume or intensity. In theory, a conscript is in service 24 hours a day; in civilian service, however, ordinary standards for working time are followed. As compared to compulsory military service, the duration of alternative service is reasonable and its nature is not that of a punishment, although it has to be admitted that NGO Human Rights Centre does not agree with such justification."*

Statistical data were mentioned: *In 2005, there were no persons in alternative service; in 2006 there were 2 such persons and in 2007 11 of 65 applications for alternative service were satisfied.*

As the overview of protection for freedom of religion and information on religious societies was already covered in the part of the report dealing with Article 18 of the Covenant, this did not receive further treatment in the part of the report on **Article 27 of the covenant**.

3.1.1.3. UN Human Rights Committee's concluding observations on Estonia's third periodic report (2010)

On 27 July 2010, the UN Human Rights Committee adopted observations on the third periodic report submitted by Estonia.



Point 14 of the concluding observations pertains to compliance with Article 18 of the Covenant:

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

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

3.1.2. UN International Covenant on Economic, Social and Cultural Rights (1966)

3.1.2.1. Article of the Covenant dealing with freedom of religion:

Article 13

/.../

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

/.../

3.1.2.2. Second Periodic Report of the Republic of Estonia under the International Covenant on Economic, Social and Cultural Rights (2008)

Estonia submitted the report to the Committee on Economic, Social and Cultural Rights in October 2008.

The religious education of children noted in Article 13 (3) of the Covenant was dealt with in point 984 of the report. It gave an overview of provisions of the Education Act and Basic Schools and Upper Secondary Schools Act pertaining to religious instruction in schools, and the option of establishing private schools was also mentioned.



3.1.2.3. UN Committee on Economic, Social and Cultural Rights concluding observations on Estonia's second periodic report (2011)

The UN Committee on Economic, Social and Cultural Rights adopted the concluding observations on Estonia's second periodic report on 2 December 2011.

The committee did not make comments in its concluding observations on the implementation of Article 13 (3).

3.1.3. Council of Europe Framework Convention on the Protection of National Minorities (1995)

3.1.3.1. The primary article of the Convention dealing with freedom of religion:

Article 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.

3.1.3.2. Estonia's Third Report on Implementing the Council of Europe Framework Convention on the Protection of National Minorities (2010)

Estonia submitted the report to the Council of Europe Advisory Committee on 13 April 2010.

In connection with Convention Article 8, the amendments made to the Churches and Congregations Act since the submission of the last report were mentioned and information on the registered religious societies, the Estonian Council of Churches, the sacral buildings programme and compatriots programme.

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Estonian Council of Churches, the sacral buildings programme and compatriots programme.

Aspects related to the Orthodox Church were treated separately:

"In 2005 the Advisory Committee recommended that Estonia should pursue the implementation of the protocol on the organisation of the property relations between the state and the Estonian Orthodox Church under the Moscow Patriarch on the organisation of property relations. As of 2009 the implementation of the protocol is completed and the State (through the Ministry of Interior) has given all the buildings mentioned in the annexes to the protocol over to the Estonian Orthodox Church under the Moscow Patriarch for use for 50 years under the contract on superficies."

3.1.3.3. Opinion of the Council of Europe Advisory Committee on Estonia's Third Report (2011), Estonia's comments (2011) and the Resolution of the Council of Europe's Committee of Ministers (2012)

The Council of Europe Advisory Committee on 1 April 2011 adopted an opinion on Estonia's Third Report.

Paragraphs 86-88 pertain to compliance with Article 8 of the Covenant:

"Recommendations of the two previous monitoring cycles

86. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue the implementation of the protocol on the organisation of property relations between the state and the Orthodox Church under the Moscow Patriarchy, and to ensure that the relevant provisions of the law are interpreted so that religious associations can write their names in an alphabet of their choice except in cases where it is necessary, for a legitimate purpose, to require also the use of the Latin script.

Present situation

87. The Advisory Committee welcomes the fact that the implementation of the above-mentioned protocol is completed as of 2009 and that the Ministry of the Interior has leased all relevant buildings for 50 years to the Estonian Orthodox Church under the Moscow Patriarchy. The Advisory Committee equally notes progress related to the use of non-Latin script in internal church matters.



Recommendation

88. The Advisory Committee encourages the Estonian authorities to continue their constructive dialogue with the Orthodox Church under the Moscow Patriarchy.”

In September 2011, the Estonian Cabinet approved comments on the opinion of the Council of Europe Advisory Committee, in which the following was noted regarding the recommendation pertaining to Article 8: “Regarding the recommendation in paragraph 88 to continue the constructive dialogue with the Orthodox Church under the Moscow Patriarchy, it is confirmed that Estonia continues open and transparent dialogue with all religious communities.”

The Council of Europe Committee of Ministers on 13 June 2012 adopted the resolution on the implementation of the Framework Convention on Protection of National Minorities by Estonia. Article 8 of the Convention was not mentioned in this resolution and the resolution does not contain any recommendations in this regard.

3.2. US STATE DEPARTMENT REPORTS

To the knowledge of the authors of this report, the United States of America is the only country in the world that annually monitors freedom of religion in all of the countries of the world and publishes reports in this area.

The reports on the situation of freedom of religion are available on the website of the US Embassy in Estonia, estonian.estonia.usembassy.gov/.

The report compiled on 2012 states the following: “The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion.” The government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the government during the reporting period. /.../ There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice.”



The assessment has been the same for all reports in recent years, which are published via the embassy website since 2007. The English-language versions of all of the reports are available at www.state.gov/j/drl/rls/irf/.

3.3. PEW RESEARCH CENTER REPORTS

The Washington-based Pew Research Center has regularly compiled reports on the restrictions to the activities of religious societies. The reports are available on the centre's website www.pewforum.org/category/publications/restrictions-on-religion/.

The report expresses the existing restrictions to the activities of religious societies and the exercise of religious freedom in each country in terms of *restrictions on religion index*. Estonia belongs to the category where the indices are lowest – that is, there are very few restrictions on religion.

3.4. EXAMPLES IN RECENT YEARS ON THE IMPACT OF INTERNATIONAL ACTIVITY ON RELIGIOUS FREEDOM IN ESTONIA

3.4.1. Amendment of the Churches and Congregations Act following presentation of a diplomatic note by the Holy See

Religious freedom is directly connected to whether associations of persons and institutions that are necessary to the individual exercise of religious freedom are permitted to register as legal persons. In Estonia, this topic came up in September 2009, when the Holy See nuncio (Vatican ambassador) contacted the Republic of Estonia with a *note verbale*.

Namely, an agreement had been signed between the Holy See and the Republic of Estonia in 1999 regarding the legal status of the Catholic Church in Estonia, under point 2 of which: "The Catholic Church, as also its institutions, which, in accordance with Canon Law, have the status of either public or private juridical persons, shall enjoy juridical personality in civil law, according to the legislation of the Republic of Estonia, together with all the rights and obligations deriving from it, from the date of their registration with the competent Estonian authorities."



The Churches and Congregations Act adopted in 1993, together with the “Statute of the registry of Estonian churches, congregations and associations of congregation” approved by Cabinet regulation of 2 May 1996, allowed churches, congregations and associations of congregations, as well as structural units of all of the above, which were founded and operating in Estonia, to be registered at the Ministry of the Interior. Thus the Dominican Order, the Missionaries of Mercy Order in Estonia and the Brigittine nuns were among those societies with legal personality in Estonia due to their having been registered with the Ministry of the Interior on the basis of the 1993 act.

But Section 2 of the Churches and Congregations Act that entered into force in 2002 set forth an exhaustive list of the subcategories of religious society – church, congregation, association of congregations and monastery. This solution (i.e. the impossibility of registering orders and other associations into the register) did not prove all-encompassing from the standpoint of exercising the religious freedom of persons. Whereas the orders active in Estonia as of 2002 had monasteries which could be registered in place of the orders, later there was a need for orders and Catholic Church institutions that did not have monasteries to also operate as legal persons in Estonia (for instance, the personal prelate Opus Dei was not able to operate as a legal person in Estonia, nor could the Jesuits have operated). In a situation where the persons belonging to such an association or order who based on canonical law are not simultaneously members of any other congregation – and likewise if such an association or order lacked monasteries, these persons could not have exercised their religious freedom through a legitimately registered religious society with legal personality.

The substance of the abovementioned *note verbale* from the Holy See was the proposal that based on the agreement between Estonia and the Vatican, the list of religious societies set forth in the Churches and Congregations Act be supplemented with church institutions operating under international agreement (the only church to operate in Estonia under international treaty is the Roman Catholic Church). The Government of the Republic agreed that the list of religious societies contained in the Churches and Congregations Act was not in conformity with the international treaty – that it was not possible to register as legal persons in Estonia under Estonian law all of the Catholic Church institutions operating under canonical law as legal persons. Thus the Government submitted to Parliament on 6 December 2010 amendments to the Churches and Congregations Act, under which institutions of a church operating under international treaty were also included among religious



societies. Parliament adopted the amendments and they entered into force in February 2011.

3.4.2. Proceedings on amendments to the Animal Protection Act related to slaughter of agricultural animals for religious purposes

On 1 January 2013, an amendment to the Animal Protection Act, and in this connection, to other legislation, entered force. It had been adopted by Parliament on 5 December 2012. It contains, *inter alia*, a new wording of Section 17 on Slaughter of Animals for Religious Purposes.

The submission of the draft legislation to the Parliament was preceded by thorough discussions over several years, between Jewish and Muslim communities and the Ministry of Agriculture. The various positions pertaining to the provision in the draft legislation (including aspects related to freedom of religion) have been dealt with at length in the explanatory memorandum to the draft legislation, which is available through eÕigus and Parliament's website.

The wording in the final text of the Act is a compromise that was acceptable to the religious societies as well as to animal protection organizations.

3.4.3. Intentions to amend a Penal Code provision on incitement to hatred

In summer 2012, the Ministry of Justice drafted amendments of several sections of the Penal Code, including Section 151. Section 151, Incitement of Hatred, envisions a criminal punishment for "Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person".

The explanatory memorandum attached to the draft amendment explains that the drafting was necessary on one hand to meet obligations arising from the Council of the European Union framework decision on combating racism and xenophobia (2008), and also in line with recommendations of international institutions (the Council of Europe's European Commission



against racism and Intolerance, committees on application of various UN conventions).

Insofar as Section 151 of the Penal Code directly pertains also to the exercise and protection of religious freedom, several Estonian religious societies weighed in on the amendments. The Ministry of Justice involved representatives of religious societies in the discussions related to the draft amendment. By the time this report went to press, the initiators of the said Penal Code amendments had not actively conducted further proceedings on them.



Table of contents

III. OPINIONS ISSUED BY INTERNATIONAL ORGANIZATIONS AND OTHER COUNTRIES REGARDING THE STATUS OF FREEDOM OF RELIGION IN ESTONIA	1
Introduction	1
3.1. CONVENTIONS AND IMPLEMENTATION THEREOF	2
3.1.1. International Covenant on Civil and Political Rights (1966).....	2
3.1.2. UN International Covenant on Economic, Social and Cultural Rights (1966)	4
3.1.3. Council of Europe Framework Convention on the Protection of National Minorities (1995)	5
3.2. US STATE DEPARTMENT REPORTS.....	7
3.3. PEW RESEARCH CENTER REPORTS	8
3.4. EXAMPLES IN RECENT YEARS ON THE IMPACT OF INTERNATIONAL ACTIVITY ON RELIGIOUS FREEDOM IN ESTONIA	8
3.4.1. Amendment of the Churches and Congregations Act following presentation of a diplomatic note by the Holy See	8
3.4.2. Proceedings on amendments to the Animal Protection Act related to slaughter of agricultural animals for religious purposes	10
3.4.3. Intentions to amend a Penal Code provision on incitement to hatred	10