

Violence against Women in Estonia

A Report to the Human Rights Committee

CONTENTS

1. PRELIMINARY OBSERVATIONS	241
1.1 ESTONIA'S INTERNATIONAL OBLIGATIONS	242
1.2 STATUS OF INTERNATIONAL LAW IN ESTONIA	243
1.3 HUMAN RIGHTS SITUATION IN ESTONIA	244
2. DE JURE AND DE FACTO STATUS OF WOMEN	245
2.1 GENDER EQUALITY IN LEGISLATION	245
2.2 WOMEN AND EDUCATION	247
2.3 WOMEN'S EMPLOYMENT AND EARNING	248
2.4 REPRESENTATION OF WOMEN IN POLITICS	250
2.5 ACCESS TO CITIZENSHIP	251
3. VIOLENCE AGAINST WOMEN IN THE FAMILY	253
4. VIOLENCE AGAINST WOMEN IN THE COMMUNITY	253
4.1 RAPE	254
4.2 VIOLENCE AT WORK	254
4.3 TRAFFICKING IN WOMEN	255
5. VIOLENCE AGAINST WOMEN AT THE HANDS OF STATE AGENTS	256
5.1 DETENTION	257
6. CONCLUSIONS AND RECOMMENDATIONS	33
CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE: ESTONIA	
SEVENTY-SEVENTH SESSION – 17 MARCH - 4 APRIL 2003	
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES	
UNDER ARTICLE 40 OF THE COVENANT	262
A. INTRODUCTION	262
B. POSITIVE ASPECTS	262
C. PRINCIPAL SUBJECTS OF CONCERN AND RECOMMENDATIONS	263

1. Preliminary Observations

The submission of information specifically relating to violence against women to the United Nations Human Rights Committee forms part of OMCT's Violence Against Women Programme which focuses on integrating a gender perspective into the work of the five "mainstream" United Nations human rights treaty monitoring bodies. OMCT's gender analyses and reporting entail examination of the effects of gender on the form which the human rights violation takes, the circumstances in which the abuse occurs, the consequences of those abuses, and the availability and accessibility of remedies.

OMCT notes with concern that Estonia's Government report CCPR/C/EST/2002/2 (hereafter referred to as the government report), only addresses some women's issues when it discusses the implementation of article 3 of the International Covenant on Civil and Political Rights (ICCPR), but does not discuss human rights of women when discussing the other articles. Moreover, OMCT regrets that the government report only deals marginally with the issue of violence against women in Estonia.

OMCT would like to recall that article 3 of the ICCPR stresses the need to ensure the equal right of men and women to the enjoyment of "*all* civil and political rights set forth in the present covenant." [emphasis added]

Moreover, with regard to violence against women, OMCT would like to evoke that in paragraph 11 of General Comment 28 adopted by the Human Rights Committee in March 2000, which examines the equality of rights between men and women and updates its earlier General Comment on that topic adopted in 1981,¹ the Committee addresses the fact that much of the violence suffered by women is violence that occurs at the hands of private individuals and recognises that this violence can amount to torture which is prohibited by article 7 in the Covenant. The paragraph reads:

"To assess compliance with article 7 of the Covenant, as well as with article 24, which mandates special protection for children, the Committee needs to be provided information on national laws and practices with regard to domestic and other forms of violence against women, including rape.

It also needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape. The States Parties should also provide the Committee information on measures to prevent forced abortion or forced sterilisation. In States Parties where the practice of genital mutilation exists, information on its extent and on measures to eliminate it should be provided. The information provided by States parties on all these issues should include measures of protection, including legal remedies, for women whose rights under article 7 have been violated.”

1.1 Estonia's International Obligations

Estonia became a member state of the United Nations on 17 September 1991. Estonia acceded to the ICCPR on 21 January 1991. Estonia's government report is submitted in accordance with article 40, paragraph 1 of the ICCPR and is Estonia's second periodic report on the measures taken by the government to implement the rights proclaimed in the ICCPR and on the progress made in the exercise of those rights.

Estonia acceded to the First Optional Protocol to the Covenant on 21 October 1991. It is not a State party to the Second Optional Protocol to ICCPR aiming at the abolition of the death penalty.

Estonia is also a State party to other international and regional human rights instruments prohibiting violence, including torture, and other cruel, inhuman or degrading treatment, directed against women. Estonia acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter the Convention against Torture) on 20 November 1991.

Estonia has acceded, without reservations, to the Convention on the Elimination of All Forms of Discrimination against Women on 20 November 1991. The Committee on the Elimination of Discrimination Against Women (CEDAW) considered Estonia's combined initial, second and third periodic report on the implementation of the Convention during its 26th session in January 2002. OMCT regrets the fact that Estonia did not ratify the Optional Protocol to the Convention.

In 1992, the CEDAW adopted General Recommendation 19, which states that “gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention.” It defines gender-based violence as “violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”

Moreover, Estonia is a State Party to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of Racial Discrimination.

At the regional level, Estonia is a participating state in the Organisation of Security and Cooperation in Europe. Moreover, it became a member of the Council of Europe on 14 May 1993 and ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms on 16 April 1996. On 6 November 1996, Estonia ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

1.2 Status of International Law in Estonia

According to article 3 of the Estonian Constitution², universally recognized principles and norms of international law are an inseparable part of the Estonian legal system. If laws or other legislation of Estonia are in conflict with international treaties ratified by the *Riigikogu*, the Estonian parliament (including international human rights conventions), the provisions of the international treaty will apply (Article 123 of the Constitution).³

In accordance with the Foreign Relations Act, the Government of the Republic is responsible for the fulfilment of international treaties. If an Estonian legal act contradicts an international treaty, the Government either submits a bill to the *Riigikogu* to amend the act, or the Government amends other legal acts within its competence to comply with the treaty.

This is the theory but, as the CEDAW noted with regard to the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women, “although in accordance with articles 3 and 123 of the Constitution, the Convention is integrated into domestic legislation and takes precedence over such legislation the Committee is concerned that there is still a lack of familiarity among the judiciary, law enforcement agents and women themselves about the opportunities for the application of the Convention in domestic decision-making.”⁴

1.3 Human rights situation in Estonia

Chapter 2 of the Estonian Constitution contains a catalogue of fundamental rights and freedoms applicable in the Republic of Estonia. The chapter comprises 48 articles setting out the framework for the protection of civil, political, economic, social and cultural rights.

All courts in Estonia are competent to deal with questions of human rights. The Constitution states that in a court proceeding, the court will leave unapplied any law or other legislation that is in conflict with the Constitution. The Supreme Court will declare invalid any law or other legislation that is in conflict with the provisions and spirit of the Constitution (article 152 of the Constitution).

Police violence and prison conditions are a problem in Estonia according to the International Helsinki Federation for Human Rights, a group of non-governmental organisations that act to protect human rights throughout Europe, North America and the Central Asian republics.⁵ Reportedly ill-treatment of prisoners takes place in both prison and pre-trial detention facilities.

The lack of independence of the judiciary in Estonia is another important problem. The independence of the judiciary is guaranteed by law but in reality there are many deficiencies. This is mainly due to financial arrangements that restrict notably the lower-level courts and a huge backlog of cases that interferes with the proper functioning of the court system.

2. De jure and de facto status of women

2.1 Gender equality in legislation

The Constitution of Estonia sets out that the rights, freedoms and duties of each and every person will be equal for Estonian citizens and for citizens of foreign States and stateless persons in Estonia (art. 9).⁶ According to the Constitution, everyone is equal before the law. No one will be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of national, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law (art. 12).⁷ Everyone has the right of appeal to a higher court against the judgement in his or her case pursuant to procedure provided by law (art. 24).⁸

Although the most serious offences in the field of gender discrimination are punishable according to the Criminal Code, Estonian courts deal address with such cases. Additionally, courts and prosecutor offices often deny qualifying certain offences as having been motivated by discrimination.⁹

The CEDAW expressed its concern that, although the Constitution and domestic laws provide for the equality of all citizens, they do not contain a specific definition of discrimination against women based on article 1 of the Convention on the Elimination of Discrimination Against Women, which prohibits both direct and indirect discrimination.¹⁰

On 14 December 2001 the Estonian Government initiated the Draft Law on Gender Equality (Draft # 927 SE). Another relevant act, the Draft Law on Equality and Equal Treatment, was submitted by the Government of the Republic on 21 October 2002 (Draft # 1198 SE). It deals with discrimination on the basis of sex, race, ethnic origin, age, disability, sexual orientation, social or legal status, religious or other belief and provides for mechanisms that could be used in cases of the so-called multiple discrimination. The draft includes comprehensive notions of direct and indirect discrimination and harassment on the abovementioned grounds. The second reading of both drafts is currently suspended because of discussions in parliament to merge to the two acts.

According to paragraph 10 of the Employment Contracts Act, it is illegal to allow or give preferences, or to restrict rights on the grounds of the sex, nationality, colour, race, native language, social origin, social status, previous activities, religion, or political or other opinion. According to article 5 of the Wages Act, it is prohibited to increase or reduce wages on the grounds of sex, nationality, colour, race, native language, social origin, social status, previous activities, religion, political or other opinions or conscientious objection. It is prohibited to reduce wages on the grounds of marital status, family obligations, membership in citizens' associations or representation of the interests of employees or employers.

In addition, on 31 May 2000 Estonia ratified the Revised Social Charter, including article 4 that contains the recognition of the right to equal pay for work of equal value. All disputes arising from this law are considered by the Commission on Labour Disputes or by the courts. Neither in 2001 nor in 2002 did the Commission on Labour Disputes consider gender-related applications.

Since 1999, the Legal Chancellor of Estonia has been vested with the powers of ombudsman (under Ch. IV of Law on Legal Chancellor¹¹). Everyone is entitled to refer to him or her for surveillance over performance of the state institutions, including the provision for constitutional rights and freedoms (Art. 19 of the Law). Also, the Legal Chancellor is empowered to receive and examine residences' complaints. Although the Legal Chancellor Office is theoretically independent, its head is a government official.

Between 1999-2000 the Legal Chancellor received only one gender-related complaint. It concerned the right of homosexual men to found a family¹². The relatively few complaints relating to gender-related discrimination is explained by the Legal Information Centre for Human Rights in part by non-efficient dealing with discrimination-related problems and the absence of a specific mandate on these issues. Moreover, information regarding the activities of the Chancellor's Office is not easily accessible to the public, and official communications do not mention discrimination and human rights violations¹³.

2.2 Women and education

According to article 37 of the Estonian Constitution, everyone has the right to education.

Estonia is well covered with a network of schools, but education is not always accessible to all children. According to State data, the overall number of children in general education schools in 1999 was 215 841. The dropout rate from the basic and upper secondary schools is extremely high in Estonia, which shows that education is not made accessible in a way that creates a possibility for everybody to receive a graduation certificate.

The percentage of dropouts according to the type of school and gender (% of girls/ boys, who studied in these types of schools) 1993/94 – 1998/99.

	a/y	Girls	Boys	Girls	Boys	TOTAL
Basic school	1993/94	0,4	1,0	389	901	1290
	1994/95	0,5	1,1	407	989	1396
	1995/96	0,4	1,0	361	995	1356
	1996/97	0,5	1,0	480	991	1471
	1997/98	0,4	1,0	366	996	1362
	1998/99	0,4	1,1	343	1051	1394
	Upper secondary school	1993/94	5,4	8,4	1064	1146
1994/95		5,5	8,5	1192	1271	2463
1995/96		5,4	7,9	1160	1180	2340
1996/97		5,4	8,8	1186	1367	2553
1997/98		6,4	9,0	1462	1390	2852
1998/99		5,6	8,1	1248	1187	2435

Source: *Annus etc. Overview of the educational system of Estonia 2000.*

According to data of an Estonian labour survey in 1995, women outperformed men with regard to the majority of educational indicators: 19% of working age women had higher education, 30% had specialised secondary education, while among working age men 16% had higher education and 21% specialised secondary education. In continuation of education after

completing the basic school, there are remarkable differences between boys and girls: in secondary schools of general education there has been predominance of girls for years, on the other hand, in vocational educational institutions, boys hold the majority.

In 1997, the total proportion of participants in third level education among women was 51% and among men 41%. Thus, considering the trends in recent years it can be said that preconditions for universal post-secondary education are developing in Estonia, although mainly among women.

While noting with appreciation the high level of education among women, the CEDAW Committee expressed its concern at the continuing gender disparities regarding educational options of boys and girls, as well as the fact that this high level of education does not result in an elimination of the wage differential between men and women, in particular the gap between female- and male-dominated sectors of employment.¹⁴

2.3 Women's employment and earning

The high level of education among the country's women does not correspond with equal chances in terms of employment and political office. The labour participation rate among women is still significantly lower than that of men (53% versus 63% in 2000), and traditional labour market patterns prevail, with about 70% of the women employed in the service sector. The average salary of women is approximately one quarter less than that of men.¹⁵ Estonia has ratified the Equal Remuneration Convention of the International Labour Organization calling for equal pay for men and women for work of equal value.

The CEDAW noted with concern that the position of women in the labour market is characterized by discrimination and by a strong occupational segregation with a concomitant wage differential. The Committee also voiced its concern about the situation of young women who face additional difficulties in the labour market, owing to the domestic and family responsibilities assigned to them, placing them in a vulnerable position and leading to a higher incidence in part-time work among women.¹⁶

“In 1997 the number of entrepreneurs was much higher among men (9,1%) than among women (about 3,0%) and this figure has not changed

much during the past decade.”¹⁷ Many studies have shown that women have less confidence in their ability to successfully conduct business than men. This is exacerbated by the lack of specific targeted programs for different groups of unemployed women addressing their training needs. It appears that these conclusions are especially relevant with regard to Russian-speaking women. Only 13% of Russian-speaking women are owners of private firms as opposed to 22% of Estonian women that have their own business.¹⁸

Population by sex and economic status, 2000

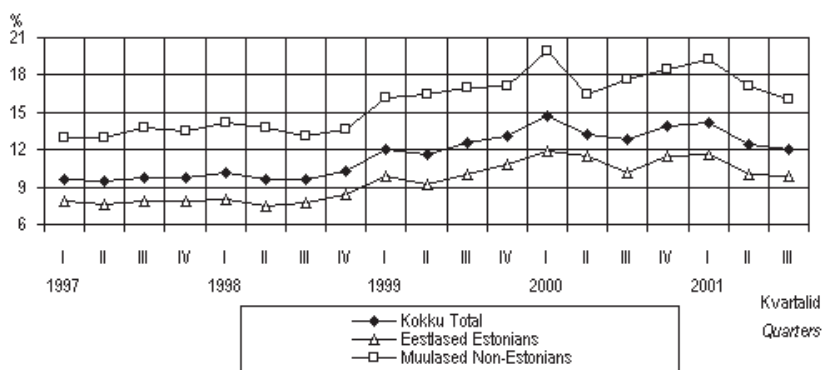
	Female	%	Male	%
Total	736 201	53.9	631 851	46.1
Labour force (active)	337 700	52.5	367500	68.4
Inactive persons	305 800		169 600	
Employed	294 800	45.8	313 800	58.4
Unemployed	42 800	12.7	53 600	14.6

Source: Estonian Labour Force Survey, 2000¹⁹

Employment rates for men are considerable higher. In 2000 the employment rates were 58.4% for men and 45.8% for women.

According to the Legal Information Centre for Human Rights, the level of unemployment among minority groups is higher than among Estonians. The majority of the population in North-Eastern Estonia (82%) is Russian-speaking. In this region, the unemployment rate is the highest at 21,1%.²⁰ As many of the people among this population are not citizens of Estonia, they are unable to participate in economic related decision making process.²¹ Between “1992-1994, the main losers on the labour market were non-Estonian women with advanced levels of education.”²²

Unemployment rate by ethnic origin



Source: Statistical Office of Estonia²³

2.4 Representation of women in politics

In the field of politics, women constituted 18% of the members of the Parliament and 26% of the members of local councils. The new Government formed at the beginning of 2002²⁵ has a record number of five women within its ranks. Surveys accounted for in the Estonian report on the implementation of the CEDAW indicated that, in particular, persons with higher education and well-paid jobs displayed a negative attitude towards the participation of women in politics, and that an overwhelming majority of both men and women remained unwilling to become involved in politics.²⁴

While welcoming the information that the new Government will have 5 women ministers out of 14 Cabinet posts, including in portfolios traditionally reserved to men, the CEDAW Committee expressed its concern at the low representation of women in decision-making bodies in the various areas and levels of political and public life.²⁵

According to the Estonian Constitution only Estonian citizens of 18 years or older have the right to vote. The Law on Riigikogu²⁶ Elections stipulates, that only Estonian citizen may run for candidate for the Riigikogu and have the right to vote. The law on Local Government Council Elections stipulates that only permanent residents who have been for 5 years in the territory of the particular local government have the right to vote.

After the 1999 elections there were 17 women in the Riigikogu: 16 Estonians and 1 Russian out of 101 parliamentarians. As of 16 January 2003, eleven political parties are participating in the parliamentary elections in March 2003. Each party has women candidates, usually one or two candidates in the top 10. The Estonian Social-Democratic Labour Party has five women candidates and the Estonian Reform Party has three women candidates.²⁷

2.5 Access to citizenship

Certain categories of Estonian residents are denied the right to receive permanent residence status. Included in this group are the wives of former military officers who served in armed forces of foreign states. These women are denied this right because of the (former) status of their spouses²⁸. Although the above-mentioned law is equally valid for both men and women, women are the ones who suffer the consequences of this provision in 99% of the cases. The CEDAW expressed its concern about this situation.²⁹

3. Violence against Women in the Family

Domestic violence is not prosecuted as a distinct criminal offence in Estonia. Violence occurring in the family is penalised under the section concerning criminal offences against a person in the Penal Code.

The position and role of Estonian women has evolved through different periods in history. Estonian ethnographers and historians have expressed opposing opinions about Estonian women. On one hand, an Estonian woman is described as relatively independent and less dependent on the husband than women in other nations, but on the other hand she is described as depending on her husband. For centuries, strong traditional patterns of a patriarchal society have developed in Estonia. Female characteristics and women's activities were often underestimated and women's work was not valued to the same extent as men's work. The patriarchal structure has changed through time but many attitudes and stereotypes treating men's central role have survived until today.

Although the understanding of traditional values in Estonia has changed in recent decades, for example, the idea of a typical preferred family model has remained unchanged through centuries. Home and family as the main guarantees of security and stability are valued highly by the Estonian people. For Estonians, as a small nation, the family is also something that has served as a consolidating unit in preserving historical traditions and developing their own culture.

The results of the surveys on gender roles carried out by the Centre of gender studies of the University of Tartu in 1995 and 1998 reflect the modern Estonian society as male-centrist society appreciating masculine qualities more than feminine qualities.

According to statistical data every day in Estonia about 200 women suffer from physical violence and 33 from sexual violence. Two thirds of these cases take place in the home. There are shelters for women who suffer from violence within the family in Tartu and Tallinn. The age of women in the shelters varies between 17-70 years³⁰.

The CEDAW expressed its concern about violence against women and girls, including domestic violence in Estonia.³¹ Therefore, the Committee urged the Government to place high priority on comprehensive measures to address violence against women in the family and in society, and to recognize that such violence, including domestic violence, constitutes a violation of the human rights of women under the Convention.

In the light of its general recommendation 19 on violence against women, the CEDAW called upon the Government to ensure that such violence constitutes a crime punishable under criminal law, that it is prosecuted and punished with the required severity and speed, and that women victims of violence have immediate means of redress and protection. It recommended that measures be taken to ensure that public officials, especially law enforcement officials, the judiciary, the medical professions and social workers are fully sensitized to all forms of violence against women. The CEDAW invited the Government to undertake awareness-raising measures, including a campaign of zero tolerance, to make such violence socially and morally unacceptable. It also recommended the introduction of a specific law prohibiting domestic violence against women, which would provide for protection and exclusion orders and access to legal aid.

In April 2000, the Ministry of Social Affairs in co-operation with the Open Society Institute and International Criminal Prevention Institute (HEUNI) conducted a study on violence against women, interviewing 102 women victims of violence. The study revealed that 62% of the interviewees considered the incident as a severe case of violence. The study also revealed that only 24% of the victims informed the police of the incident. A criminal charge was filed against the offender in only two cases of all of the incidents.³²

4. Violence Against Women in the Community

4.1 Rape

The new Penal Code defines rape as sexual intercourse with a person against his or her will, or taking advantage of a situation in which the person was not capable of resisting or comprehending the act.³³ The definition of rape extends to rapes within the family. Sexual intercourse with someone under the age of 14 is criminalised by the penal code. However, Estonian law permits the marriage of a girl between the ages of 15 and 18 in exceptional circumstances such as pregnancy.

Family violence and violence against women as an area of concern is not regularly measured and statistically covered in Estonia. The official statistics do not fully reflect the scope of the problem. For example, data on rapes are reported to and officially registered by the Police. However, the data collected about rapes and attempted rapes are insufficient because only a small number of cases are reported to the police and therefore do not give a representative overview about incidences of violence against women.

A survey conducted in 1995 indicated that only 6% of raped women informed the police about the crime.³⁴ Police departments in Estonia have begun to create special interviewing rooms with modern equipment where statements are video taped so that a victim of crime does not have to provide repeated testimonies of his or her sufferings. So far such rooms have been created in Tartu and Võru and they are meant first of all for child victims, but they can also be used for female victims.

In some police prefectures there are also specially trained female officers who can recognise the behaviour of a sexually abused person and are able to handle the person in an appropriate manner. At the beginning of 2001, a number of police officers were given a five-day training session on the essence of violence against women and on practical methods of handling victims and violent persons.

4.2 Violence at work

Cases have been reported where pregnant women are forced by the management of private companies to write a petition on acquisitive resignation. Frequently, private firms refuse to engage pregnant women or the women are forced to work illegally without a contract. As a result the employers do not pay state taxes for these women and as a consequence, women have no state social protection.³⁵ As mentioned above, women are mostly occupied in the lesser prestigious and lesser paid professions.

As noted above, all labour disputes are considered by the Commission on Labour Disputes or by the Courts. Neither in 2001 nor in 2002 did the Commission on Labour Disputes consider gender-related applications.

4.3 Trafficking in women

The new Penal Code that entered into force in September 2002, finally criminalized trafficking in women.

The General Assembly adopted the United Nations Convention against Transnational Organized Crime in November 2000. The Convention is currently supplemented by two Protocols, one is trafficking in persons and one is on smuggling in persons. On 4 December 2002 Estonia ratified this Convention. The Convention is not yet in force.

Trafficking in human beings has become a serious global concern. International criminal groups, whose activities often include other forms of illicit trade such as smuggling of drugs and arms, often control trafficking in persons as well. In addition to abusing human rights, and violating labour and migration laws, trafficking in persons is also a problem of national and international security.

The social-economic situation of women in Estonia is generally worse than that of men as women are mostly in occupations that have lesser prestige and smaller wages. Therefore, women are more likely to become the victim of trafficking. Because of their even less favourable position, members of the Russian-speaking community in the northeast of Estonia constitute a large part of the number of victims.

Estonia is a source country for women and girls trafficked for the purpose of sexual exploitation. Victims are trafficked abroad to the Nordic countries and West Europe, including Germany, the Netherlands, Ireland, the United Kingdom, Italy and Iceland, Ireland and also to Japan and the USA. A recent IOM report estimated that about 500 women and girls from Estonia are transported abroad every year under false pretences and are forced to work as prostitutes, domestic workers or servants.

The CEDAW noted with concern that there is still not enough information on the subject of trafficking nor a comprehensive policy to address the problem.³⁶

5. Violence against women at the hands of state agents

As stated before, Estonia acceded to the UN Convention against Torture and Other Inhuman or Degrading Treatment or Punishment on 21 October 1991 and the Convention entered into force with respect to Estonia on 20 November 1991.

Article 18 of the Estonian Constitution states that no one shall be subjected to torture or to cruel or degrading treatment or punishment and that no one shall be subjected to medical or scientific experiments against his or her free will.

Until 2002, the Criminal Code of Estonia did not consider torture as a crime. State references to the articles containing any punishment for committing violent actions by officials are justified. On September 1, 2002 a new Penal Code came into force, which had been adopted by the Parliament on June 6, 2001 (RT I 2001, 61, 364). It contains the chapter Violent Actions which defines in paragraph 122 torture as follows: *Continuous physical abuse or abuse which causes great pain*

*is punishable by a pecuniary punishment or up to 5 years' imprisonment.*³⁷

By not including psychological suffering within its scope, the definition of torture used in the Estonian legislation is narrower than the generally accepted definition, as provided for in the Convention against Torture in Article 1. After consideration of the initial report of Estonia in 1995, the UN Human Rights Committee noted that the definition of torture in article 114 of the Criminal Code was limited to physical force and does not encompass psychological torture and duress. In this respect the Penal Code of 2001 is no improvement. With regard to article 7 of the Covenant, the Committee strongly recommended that article 114 of the Criminal Code be reviewed so as to ensure its compliance with the broader scope of torture under the Covenant, and called the attention of the authorities to its General Comment No. 20 (44).³⁸

5.1 Detention

The conditions of detention are cause for concern. According to the International Helsinki Federation for Human Rights prison conditions remained poor despite considerable progress in this area.³⁹ Very often the conditions in which people are held during the arrest or imprisonment cause serious damage to their mental and physical health and could be considered as torture or inhuman and degrading treatment. In their letters to the Legal Information Centre for Human Rights prisoners often complain about the rudeness and psychological pressure from the administration, groundless tightening of the regime, length of the legal proceedings, very difficult conditions of imprisonment.⁴⁰ The media has reported about numerous hunger strikes in prisons.

Estonia acceded in 1996 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols no. 1 and 2. The Convention entered into force with respect to Estonia on 1 March 1997. The provisions of the Convention are directly applicable in domestic courts. Case law of the application of the Convention is also part of domestic law.

Under Article 7 of that convention European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or

Punishment (CPT) has carried out two visits to Estonia from 13 to 23 July 1997 and from 15 to 21 December 1999. In October 2002 the reports of these visits were published, assessing the treatment of people detained in Estonia.⁴¹

During the 1997 visit, the CPT found that, in recent years, there had been a marked improvement in the manner in which detained persons were treated by the police. However, extremely poor conditions of detention prevailed in many police arrest houses. Detainees were held for prolonged periods in unhygienic and overcrowded cells, with no mattresses and a meagre amount of food. During a follow-up visit carried out in 1999, the CPT noted the first positive steps taken by the Estonian authorities to improve this situation.

The conditions of detention of remand prisoners observed at Tallinn Central Prison in 1997 were intolerable. Deplorable material conditions were compounded by a total absence of activities. In their responses, the Estonian authorities provide detailed information on the measures taken to improve conditions of detention in the establishment and throughout the prison system.

Many allegations of ill-treatment of patients were received at Valkla Social Welfare House during the 1997 visit. Further, the establishment was not adequately resourced, particularly in terms of staff. During a follow-up visit in 1999, the CPT noted that the situation had significantly improved. No allegations of ill-treatment were heard, and special training had been organised for staff.

6. Conclusions and recommendations

OMCT urges the government of Estonia to include the definition of discrimination against women in its Constitution and national legislation and recommends the speedy adoption of the draft laws on gender equality.

OMCT recommends that the government of Estonia increases the strength and visibility of the Gender Equality Bureau, a sub-unit of the Ministry of Social Affairs tasked with the responsibility of mainstreaming gender equality.

OMCT recommends that the public is properly informed about the activities of the Legal Chancellor's Office with regard to human rights violations and discrimination.

OMCT welcomes the high level of education among women in Estonia but regrets that this does not result in an elimination of the wage differential between men and women and better employment opportunities for women. OMCT therefore recommends that the government works towards bridging this gap and pays specific attention to Russian-speaking women as they are a specifically vulnerable group.

OMCT urges the government to stimulate the representation of women in decision-making bodies in the various areas and levels of political and public life.

The generalised inequality between men and women in Estonia has created a situation in which women are particularly vulnerable to violence. Violence against women constitutes a serious obstacle to the achievement of women's equality. In this light, OMCT expresses its concern about the fact that violence against women is not prosecuted as a distinct criminal offence and recommends that Estonia adopt a specific law prohibiting domestic violence against women, which would provide for protection and exclusion orders and access to legal aid. OMCT would recommend that effective measures be taken with respect to the enactment of legislation on domestic violence along the lines of the guidelines submitted by the United Nations Special Rapporteur on violence against women to the fifty-second session of the United Nations Commission on Human Rights (U.N. doc. E/CN.4/1996/53, Add.2). The government should adopt special legislation to meet the specific circumstances and needs created by family-based violence. OMCT recommends that the government establish programmes in order to improve the economic situation of women and the implementation of public education programmes to eliminate traditional stereotypes of the roles of men and women in society and to eradicate practices that discriminate against women.

OMCT welcomes the criminalisation of trafficking in the new Penal Code and it would urge the Government to introduce programmes aimed at increasing awareness and understanding of the seriousness of trafficking. These programmes should focus on the methods used by traffickers and the hazardous consequences of being lured into trafficking.

The current definition of torture in the Penal Code contains only physical violence not psychological violence. OMCT urges the government to broaden the scope of the definition, in line with Article 1 of the Convention against Torture.

Finally, OMCT would insist on the need to fully implement all provisions of the Convention on the Elimination of Discrimination against Women, the Declaration on the Elimination of Violence against Women as well as the Beijing Platform of Action, in Estonia as these are the most relevant international instruments concerned with all forms of violence against women.

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- 1 The complete text is available on the website of the Office of the High Commissioner for Human Rights: www.unhcr.ch and can be obtained under the symbol: UN Doc. CCPR/C/21/Rev.1/Add.10.
 - 2 Article 3 Estonian Constitution, see for the English translation www.oefre.unibe.ch.
 - 3 *Ibid.*, Article 123.
 - 4 Concluding observations, UN Doc. CEDAW/C/2002/1/CRP.3/Add.7
 - 5 See Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America, Report 2002, available at www.ihf-hr.org.
 - 6 Article 9 Estonian Constitution, *Ibid.*.
 - 7 Article 12, *Ibid.*
 - 8 Article 24, *Ibid.*
 - 9 Vadim Poleshchuk, *Legal Analyses of Existing Domestic Legislation Identifying Modifications Required to Conform to the Race Directive. Estonia*; Minority Policy Group, Interights, Roma Rights Center, September 2001.
 - 10 Concluding observations, UN Doc. CEDAW/C/2002/1/CRP.3/Add.7.
 - 11 Law on Legal Chancellor, RT I 1999, 29, 406.
 - 12 Poleshchuk, *Ibid.*
 - 13 “Minority protection in Estonia”, part IV “Institutions for the Protection of Minorities”, section A “Official Bodies”. Report of the Legal Information Centre for Human Rights.
 - 14 Concluding observations, UN Doc. CEDAW/C/2002/1/CRP.3/Add.7
 - 15 Research conducted in 2000 by the UNDP and the Estonian Ministry of Social Affairs
 - 16 Concluding observations, UN Doc. CEDAW/C/2002/1/CRP.3/Add.7

- 17 Rein Vöörmann, Men and women on the labor market: wage ratios. *Towards a balanced society. Women and men in Estonia*, Ministry of Social Affairs of Estonia, UNDP, Tallinn, 2000 (Information received from the Legal Information Centre for Human Rights).
- 18 Ivi Proos, *Carrier for Estonian women money for Russians*, newspaper “Eesti Päevaleht”, 04 January 2001 (Information received from the Legal Information Centre for Human Rights).
- 19 Cf. the official web site of the National Statistical Office <http://www.stat.vil.ee/1-market/tt2000/9.htm> (Information received from the Legal Information Centre for Human Rights).
- 20 Hilda Vall, Unemployment rate by regions, article in daily news “Estonia” on 27.02.2001 (Information received from the Legal Information Centre for Human Rights).
- 21 Statement by Vadim Poleshchuk, LICHR in “Social Dimension of Integration in Estonia and Minority Education in Latvia”, ECMI Workshops “Social Dimension of Integration in Estonia” 19-21 October 2001, Pärnu, Estonia (Information received from the Legal Information Centre for Human Rights).
- 22 Statement by Jelena Helemäe, IISS, in “Social Dimension of Integration in Estonia and Minority Education in Latvia”, ECMI Workshops “Social Dimension of Integration in Estonia” 19-21 October 2001, Pärnu, Estonia (Information received from the Legal Information Centre for Human Rights).
- 23 Estonian Labour Force Survey, 3rd quarter 2001. The monthly “Estonian Statistics” No 10. Statistical Office of Estonia, Tallinn 2001 http://www.stat.vil.ee/1-market/tt01_3kv/7.htm (Information received from the Legal Information Centre for Human Rights).
- 24 UN Doc CEDAW.
- 25 Concluding observations, UN Doc. CEDAW/C/2002/1/CRP.3/Add.7.
- 26 Riigikogu – the Estonian Parliament.
- 27 Information on the 2003 elections can be obtained from the Estonian National Electoral Committee at www.vvk.ee.
- 28 Article 21 Law on Citizenship.
- 29 Concluding observations, UN Doc. CEDAW/C/2002/1/CRP.3/Add.7.
- 30 Newspaper Eesti Päevaleht of 8 January, 2003, Home violence hale women to the shelters.
- 31 Concluding observations, UN Doc. CEDAW/C/2002/1/CRP.3/Add.7.
- 32 Voldemar Kolga, Estonia National Report on Law and Policy Addressing Men’s Practices Work Package 3, available at [http://www.cromenet.org/customers/crome/crome.nsf/resources/768155295D5F88C1C2256B6C00307EB1/\\$file/wp3+Estonia.a.doc](http://www.cromenet.org/customers/crome/crome.nsf/resources/768155295D5F88C1C2256B6C00307EB1/$file/wp3+Estonia.a.doc).
- 33 §141 Penal Code.
- 34 Josing, Ahven 1999:98, cited in, Voldemar Kolga, Estonia National Report on Law and Policy Addressing Men’s Practices Work Package 3, available at [http://www.cromenet.org/customers/crome/crome.nsf/resources/768155295D5F88C1C2256B6C00307EB1/\\$file/wp3+Estonia.doc](http://www.cromenet.org/customers/crome/crome.nsf/resources/768155295D5F88C1C2256B6C00307EB1/$file/wp3+Estonia.doc).
- 35 Information received from Legal Information Centre for Human Rights.

- 36 Concluding observations, UN Doc. CEDAW/C/2002/1/CRP.3/Add.7.
- 37 Translated by the Estonian Legal Translation Centre <http://www.legaltext.ee/et/andmebaas/ava.asp?m=022>.
- 38 UN Doc. CCPR/C/79/Add.59. (Concluding Observations/Comments).
- 39 Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America; Report 2001 (events of 2000), p.120.
- 40 Information received from the Legal Information Centre for Human Rights.
- 41 The CPT reports and the responses of the Estonian authorities are available on the CPT's website (<http://www.cpt.coe.int>).

Human Rights Committee

SEVENTY-SEVENTH SESSION – 17 MARCH - 4 APRIL 2003

**CONSIDERATION OF REPORTS SUBMITTED
BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

**CONCLUDING OBSERVATIONS BY THE HUMAN RIGHTS COMMITTEE:
ESTONIA**

1. The Committee considered the second periodic report of Estonia (CCPR/C/EST/2002/2) at its 2077th and 2078th meetings, held on 20 and 21 March 2003 (see CCPR/C/SR.2077 and 2078) and adopted the following concluding observations at its 2091st meeting (CCPR/C/SR.2091), held on 31 March 2003.

A. Introduction

2. The Committee welcomes the second periodic report of the State party and expresses its appreciation for the frank and constructive dialogue with the delegation. It welcomes the detailed answers that were provided to its written questions.
3. While the report was submitted with some delay, the Committee notes that it provides important information on all aspects of the implementation of the Covenant in the State party, as well as on concerns specifically addressed by the Committee in its previous concluding observations.

B. Positive aspects

4. The Committee expresses its satisfaction over several new legislative developments in areas related to the implementation of the provisions

of the Covenant that have taken place in the State party since the submission of the initial report.

5. The Committee welcomes the measures taken by the State party to create the office of the Legal Chancellor and the addition of Ombudsman functions to its responsibilities.
6. The Committee welcomes the measures and legislation adopted by the State party to improve the status of women in Estonian society and to prevent gender discrimination. It particularly notes article 5 of the "Wages Act", which now prohibits the establishment of different wage conditions on the basis of gender, and articles 120 to 122 and article 141 of the new Penal Code, which make domestic violence and marital rape specific criminal offences.
7. The Committee welcomes the delegation's affirmation that the problem of prison overcrowding is being resolved, through the decreasing number of persons detained owing, inter alia, to increasing resort to alternative forms of punishment, and the opening of a new spacious prison in Tartu.

C. Principal subjects of concern and recommendations

8. The Committee is concerned that the relatively broad definition of the crime of terrorism and of membership of a terrorist group under the State party's Criminal Code may have adverse consequences for the protection of rights under article 15 of the Covenant, a provision which significantly is non-derogable under article 4, paragraph 2.

The State party is requested to ensure that counter-terrorism measures, whether taken in connection with Security Council resolution 1373 (2001) or otherwise, are in full conformity with the Covenant.

9. While welcoming the additional explanations of the delegation on a case of alleged ill-treatment committed by police officers, the Committee remains concerned that acts of ill-treatment or other forms of violence perpetrated or condoned by law enforcement officials are not prosecuted on the basis of the most appropriate criminal charges but only as minor offences.

The State party should ensure that law enforcement officials are effectively prosecuted for acts that are contrary to article 7 of the Covenant, and that the charges correspond to the seriousness of the acts committed. The Committee also recommends that the State party guarantee the independence from police authorities of the newly created "police control department", which is responsible for carrying out investigations of abuses committed by the police.

10. The Committee takes note of the delegation's acknowledgement that legislation on detention of mental health patients is outdated and that steps have been taken to revise it, including the adoption of a Draft Patient Rights Act. In this regard, the Committee is concerned at some aspects of the administrative procedure related to the detention of a person for mental health reasons, in particular the patient's right to request termination of detention, and, in the light of the significant number of detention measures that had been terminated after 14 days, the legitimate character of some of these detentions. The Committee considers that a period of 14 days of detention for mental health reasons without any review by a court is incompatible with article 9 of the Covenant.

The State party should ensure that measures depriving an individual of his or her liberty, including for mental health reasons, comply with article 9 of the Covenant. The Committee recalls the obligation of the State party under article 9, paragraph 4, to enable a person detained for mental health reasons to initiate proceedings in order to review the lawfulness of his/her detention. The State party is invited to furnish additional information on this issue and on the steps taken to bring the relevant legislation into conformity with the Covenant.

11. The Committee is concerned at information that deserters from the armed forces may have been kept in solitary confinement for up to three months.

The State party is under an obligation to ensure that the detention of alleged deserters is in conformity with articles 9 and 10 of the Covenant.

12. In the light of the State party's legislation on the use of firearms, the Committee expresses concern at the possibility to use lethal force in circumstances not presenting a risk to the life of others.

The State party is invited to revise its outdated legislation to ensure that the use of firearms is restricted by the principles of necessity and proportionality as reflected in articles 9 and 16 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (U.N. Doc. A/CONF.144/ 28/Rev.1 at 112 (1990)) (articles 7 and 10).

13. While welcoming the precise information provided by the delegation on the procedure related to the determination of refugee status, the Committee remains concerned that the application of the principle of "safe country of origin" may deny the individual assessment of a refugee claim when the applicant is considered to come from a safe country.

The State party is reminded that, in order to afford effective protection under articles 6 and 7 of the Covenant, applications for refugee status should always be assessed on an individual basis and that a decision declaring an application inadmissible should not have restrictive procedural effects such as the denial of suspensive effect of appeal (articles 6, 7 and 13).

14. Regretting that the concerns of its previous concluding observations (paragraph 12) have not been met, the Committee remains deeply concerned by the high number of stateless persons in Estonia and the comparatively low number of naturalizations. While the State party has adopted a number of measures designed to facilitate naturalization, a large number of stateless persons do not even initiate this procedure. The Committee takes note of the different reasons underlying this phenomenon but considers that this situation has adverse consequences in terms of the enjoyment of the Covenant rights and that the State party has a positive duty to ensure and protect those rights.

The State party should seek to reduce the number of stateless persons, with priority for children, inter alia by encouraging their parents to apply for Estonian citizenship on their behalf and by promotion campaigns in schools. The State party is invited to reconsider its position as to the accessibility of Estonian citizenship to persons who have

taken the citizenship of another country during the period of transition and to stateless persons. The State party is also encouraged to conduct a study on the socio-economic consequences of statelessness in Estonia, including the issue of marginalization and exclusion (articles 24 and 26).

15. The Committee is concerned that the duration of alternative service for conscientious objectors may be up to twice as long as the duration of regular military service.

The State party is under an obligation to ensure that conscientious objectors may opt for alternative service, the duration of which is without punitive effect (articles 18 and 26).

16. While welcoming the abolition of the requirement of proficiency in Estonian language for standing as a candidate in elections and the assertion by the delegation that the use or size of advertisements and signs in other languages is not restricted, the Committee is concerned at the practical implementation of Estonian language proficiency requirements, including in the private sector and the effect this may have on the availability of employment to the Russian-speaking minority. It is also concerned that, in those areas where a substantial minority speaks primarily Russian, public signs are not posted also in Russian.

The State party is invited to ensure that, pursuant to article 27 of the Covenant, minorities are able in practice to enjoy their own culture and to use their own language. It is also invited to ensure that legislation related to the use of languages does not lead to discrimination contrary to article 26 of the Covenant.

17. Taking into account the considerable number of non-citizens residing in the State party as their own country, the Committee is concerned about legislation prohibiting non-citizens from being members of political parties.

The State party should give due consideration to the possibility for non-citizens to become members of political parties (article 22).

18. The Committee regrets the lack of detailed information about the actual results of the activities of the Legal Chancellor and other bodies like

the Labour Inspectorate, in relation to their competence to receive and deal with individual complaints.

The State party is invited to furnish detailed information on the number, nature and outcome, as well as concrete examples, of individual cases submitted to the Office of the Legal Chancellor and other bodies dealing with individual complaints.

19. The State party should disseminate widely the text of its second periodic report, the replies provided to the Committee's list of issues, and the present concluding observations.
20. In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should provide within one year relevant information on the implementation of the Committee's recommendations in paragraphs 10, 14 and 16 above. The third periodic report should be submitted by 1 April 2007.

