

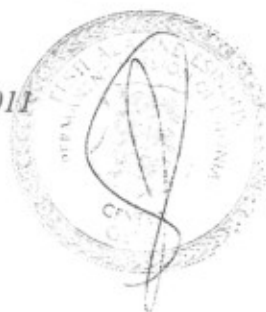
*Permanent Mission of Estonia
Geneva*

No. 10-6/543

The Permanent Mission of the Republic of Estonia to the United Nations and Other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and in response to the Latter's letter from 29 September 2011, has the honour to forward the reply of the Government of Estonia to the enclosed questions on the right to enjoy the benefits of the scientific progress and its applications referring to the Human Rights Council resolution 10/23.

The Permanent Mission of Estonia to the United Nations and Other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 21 November 2011



Enclosure: 4 pages

Office of the High Commissioner for Human Rights

GENEVA

Response of Estonia to the questionnaire on the right to enjoy the benefits of scientific progress and its applications

Accessing the benefits of science and its applications

1. What legal, administrative and policy measures exist or are planned in your country:

a) To ensure that marginalized groups benefit from scientific progress and its applications, including, women, persons with disabilities, minority groups, rural communities and indigenous peoples?

The legislation regarding science is built on the Constitution of the Republic of Estonia (hereinafter referred to as the Constitution) which ensures equal access to scientific accomplishments for all groups of the society. § 12 of the Constitution states 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.

The Equal Treatment Act defines indirect discrimination. § 3 (4) of the Act states that indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons, on the basis of nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation at a particular disadvantage compared with other person.

Thus, legislation shall establish a possibility to use the benefits of scientific progress also for marginal groups. Laws which would indirectly hinder the access of marginal groups to the benefits of science would be unconstitutional.

The conformity of legislation with the Constitution is reviewed by the institution of Chancellor of Justice. § 139 of the Constitution prescribes that the Chancellor of Justice shall be, in his or her activities, an independent official who shall review the legislation of the legislative and executive powers and of local governments for conformity with the Constitution and the laws.

b) To promote research and development in areas specifically relevant to marginalized groups, by, for example, providing incentives for innovative research on neglected diseases?

- c) To ensure and facilitate broad access to information and communication technologies (e.g., computers, internet and mobile phones)?
 - d) To identify and develop the scientific applications necessary for sustainable solutions to ensure the right of everyone to have access to safe and nutritious food, access to potable water and sanitation, and to address climate change?
2. What are the key challenges faced in your country in undertaking research at the domestic level and ensuring access to scientific developments and its applications, particularly for marginalized groups?

Scientific responsibility, safeguards and remedies

3. what legal, administrative, and policy mechanisms exist or are planned in your country:
- a) To regulate and monitor scientific research and its applications in the private and public sector so as to provide safeguards against any infringement upon the full enjoyment of human rights? In particular, to safeguard the human rights of participants in research activities and applications by public and private scientific institutions (e.g. rights to information, free and informed consent)?

§ 15 of the Constitution states that everyone whose rights and freedoms are violated has the right of recourse to courts.

- b) To protect the rights of indigenous peoples and local communities whose traditional knowledge is utilized, in the development, dissemination and commercialization of scientific information and knowledge?
- c) To provide effective remedies and safeguards for any human rights violation related to scientific research or the applications of science or technology? (e.g. judicial review, national human rights institutions or ombudspersons, and other administrative arrangements)

As indicated above, § 15 of the Constitution provides that everyone whose rights and freedoms are violated has the right of recourse to courts. Pursuant to conciliation

procedure, discrimination disputes shall be resolved by the Chancellor of Justice. As the Ombudsman, the Chancellor of Justice inspects the actions of institutions performing public duties and checks whether a state authority follows the fundamental rights and freedoms of a person and good administrative behaviour.

The rights of scientists and collaborative work

4. What measures have been put in place to recognize, respect and protect the rights of scientists:

a) To freedom of expression, information and association?

The freedom of expression has been ensured by § 45 of the Constitution which states that everyone has the right to freely disseminate ideas, opinions, beliefs and other information by word, print, picture or other means. This right may be restricted by law to protect public order, morals, and the rights and freedoms, health, honour and good name of others.

b) To collaborate with colleagues nationally and internationally, including through sharing data, samples, research findings, and other information, by travelling freely within and outside the country, and conducting joint research projects?

The development and coordination of international cooperation in science is regulated by the Research and Development Organisation Act. International cooperation in science is also ensured by the Universities Act § 14 (3) of which states that when carrying out their mission, universities shall cooperate with each other and the entire society by supporting the development of the society and national culture through effective research and development or other creative activity and by creating and developing possibilities for international cooperation, acquisition of academic higher education and lifelong learning based on integrated learning and research.

Academic freedom to operate is also ensured by § 19 of the Constitution which prescribes everyone's right to free self-realisation. Everyone shall honour and consider the rights and freedoms of others, and shall observe the law, in exercising his or her rights and freedoms and in fulfilling his or her duties.

§ 29 of the Constitution states that an Estonian citizen has the right to freely choose his or her area of activity, profession and place of work. Conditions and

procedure for the exercise of this right may be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.

The laws of the Republic of Estonia do not restrict ones academic freedom to operate based on citizenship. (To explain: For example, the freedom to operate in regard to ones profession is restricted for citizens of foreign states and stateless persons under § 14 of the Public Service Act which states that an Estonian citizen may be employed in the service as a state or local government official).

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GVA-0616



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The Office of the High Commissioner for Human Rights presents its compliments to the Permanent Missions to the United Nations Office in Geneva and has the honour to transmit the letter and questionnaire attached on the right to enjoy the benefits of scientific progress and its applications, elaborated by the Independent Expert in the field of cultural rights, Farida Shaheed, pursuant to Human Rights Council resolution 10/23.

The Office of the High Commissioner for Human Rights would be grateful if this letter could be transmitted at your earliest convenience to the relevant department or agency, and if the submissions could be sent electronically to lculturalrights@ohchr.org no later than **25 November 2011**. Kindly limit your responses to 2,500 words and attach annexes where necessary. Please also indicate if you have any objections with regard to your reply being posted on the OHCHR website.

The Office of the High Commissioner for Human Rights avails itself of this opportunity to renew to the Permanent Missions to the United Nations Office in Geneva the assurance of its highest consideration.

29 September 2011

A handwritten signature in black ink, appearing to be the initials of the High Commissioner for Human Rights.

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GVA-0616

29 September 2011

Excellency,

I have the honour to address you in my capacity as the United Nations Independent Expert in the field of cultural rights. Pursuant to Human Rights Council resolution 10/23, in my third report I propose to explore *the right to enjoy the benefits of scientific progress and its applications*, as enshrined in article 27 of the Universal Declaration of Human Rights and article 15, paragraph 1 (b), of the International Covenant on Economic, Social and Cultural Rights.

The right to enjoy the benefits of scientific progress and its applications covers all sciences: life, physical, behavioural and social, as well as engineering and the health professions. The realization of this right requires steps to be taken to ensure (a) the access of all people, especially marginalized groups, to the benefits of scientific knowledge, progress and its applications necessary to lead a dignified life, as well as to the information necessary for engaging in decision-making processes regarding proposed areas of research and development; (b) the freedom indispensable for scientific research, including the rights of scientists to freedom of thought, to hold opinions without interference, and to travel; (c) that the manner in which scientific research is undertaken and applied does not give rise to violations of human rights; (d) the establishment of a robust scientific infrastructure, bearing in mind the financial and human resources required for the realization of the right to enjoy the benefits of scientific progress and its applications; and (e) the development and encouragement of international contacts and cooperation.

In order to assess achievements and challenges related to the right to enjoy the benefits of scientific progress and its applications, I have prepared a questionnaire on the implementation of this right (attached), which I am hereby sending to States, United Nations agencies, academics and civil society.

I wish to thank your Excellency's Government in advance for its cooperation and I hope to continue a constructive dialogue on issues related to my mandate.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in dark ink, appearing to read 'Farida Shahood', written in a cursive style.

Farida Shahood
Independent Expert in the field of cultural rights

QUESTIONNAIRE ON THE RIGHT TO ENJOY THE BENEFITS OF SCIENTIFIC PROGRESS AND ITS APPLICATIONS

Accessing the benefits of science and its applications

1. What legal, administrative and policy measures exist or are planned in your country:
 - a) To ensure that marginalized groups benefit from scientific progress and its applications, including, women, persons with disabilities, minority groups, rural communities and indigenous peoples?
 - b) To promote research and development in areas specifically relevant to marginalized groups, by, for example, providing incentives for innovative research on neglected diseases?
 - c) To ensure and facilitate broad access to information and communication technologies (e.g., computers, Internet and mobile phones)?
 - d) To identify and develop the scientific applications necessary for sustainable solutions to ensure the right of everyone to have access to safe and nutritious food, access to potable water and sanitation, and to address climate change?
2. What are the key challenges faced in your country in undertaking research at the domestic level and ensuring access to scientific developments and its applications, particularly for marginalized groups?

Scientific responsibility, safeguards and remedies

3. What legal, administrative, and policy mechanisms exist or are planned in your country:
 - a) To regulate and monitor scientific research and its applications in the private and public sector so as to provide safeguards against any infringement upon the full enjoyment of human rights? In particular, to safeguard the human rights of participants in research activities and applications by public and private scientific institutions (e.g. rights to information, free and informed consent)?
 - b) To protect the rights of indigenous peoples and local communities whose traditional knowledge is utilized, in the development, dissemination and commercialization of scientific information and knowledge?
 - c) To provide effective remedies and safeguards for any human rights violation related to scientific research or the applications of science or technology? (e.g. judicial review, national human rights institutions or ombudspersons, and other administrative arrangements)

The rights of scientists and collaborative work

4. What measures have been put in place to recognize, respect and protect the rights of scientists:
 - a) To freedom of expression, information and association?
 - b) To collaborate with colleagues nationally and internationally, including through sharing data, samples, research findings, and other information, by travelling freely within and outside the country, and conducting joint research projects?

