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Permanent Mission of Estonia HR REGISTRY
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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 3 December 2012, has the honour to forward the reply of the Government of Estonia to the questionnaire related to the Human Rights Council resolution A/HRC/21/30 entitled "Elaboration of international complementary standards to the International Convention on the Elimination of all Forms of Racial Discrimination".

The Permanent Mission of Estonia avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 15 January 2013



Enclosure: 4 pages

Office of the High Commissioner for Human Rights
GENEVA

Response of Estonia to the questionnaire on the elimination of all forms of racial discrimination

- I. Kindly provide information on the phenomena of xenophobia in your national context, including any general trends.

- II. How is xenophobia addressed in your country (include any legal and judicial frameworks and practices, substantive and procedural measures)?

According to the Penal Code, the Police are the competent authority for investigation in activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, origin, religion, sexual orientation, political opinion, or financial or social status if it causes the death of a person or results in damage to health or other serious consequences.

The racial or xenophobic motive of offences can be registered in criminal statistics although it is not listed as an aggravating circumstance. Due to this reason the motive is not often reflected. This deficiency is going to be remedied by a draft amendment to the Penal Code that adds the biased motive of an offence. Incitement of hatred, violence or discrimination due to xenophobic motives is criminalised as a misdemeanour and, under aggravating circumstances as an offence. The Ministry of Justice has initiated proceedings to amend the Penal Code which will also address the issue of punishments.

In Estonia, the responsibility for protecting the constitutional order rests with the police, including the Security Police Board. The Security Police Board has the duty to prevent, combat and detect illegal activities of extremist groups or individuals that can include inciting racial hatred or terrorism or activities aimed at changing the constitutional order or territorial integrity of the state by force.

- III. Which national mechanism(s) with competences to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance does your country have in place? Kindly indicate the(ir) mandate(s) and powers, including any proposals for improvement on the basis of national experience.

The aim of police prevention work is to prevent breach of public order and combat danger. The Police inform the population regularly of possibilities of participating in crime prevention. Violence (including intimate relationship violence and bullying in child care institutions) is one of the prioritised prevention directions of the field of internal security in 2012–2015. The other prioritised issues concern traffic, criminal offences against property, addictive substances, deaths by drowning, reducing undetermined citizenship, important identity document, and offences committed on the Internet or via Internet. The Police and Border Guard Board prepares an annual plan on crime preventive activities with the aim of assembling all crime preventive activities across Estonia and to take the mapping as a basis in planning the police activities.

In Estonia we have web-officers (police officers who work on the Internet) whose activities are also preventional, including paying attention to racial, ethnic and social problems. The web-officer project was launched in 2011.

The Police are open to a dialogue and communication to prevent potential conflicts with victims or potential victims of racial discrimination, and racially motivated violent acts against these groups and other persons. When planning its preventive activities, the Police and Border Guard Board takes into consideration the cultural differences of the locality, suitable people and channels are selected to deliver their messages and to enhance cooperation. Special preventive activities related to ethnic minorities have been directed to the Russian-speaking population, mainly in Ida-Viru and Harju Counties. In implementation of the preventive work, local peculiarities are taken into consideration and, on the basis of selection of the target group, the activities are carried out by police officials of the same ethnic and linguistic origin, if possible.

One of the institutions to which people can turn in the case of violation of their rights and freedoms is the Chancellor of Justice. Among other competences, the Chancellor of Justice can also verify whether persons in public law and persons in private law who perform public duties violate people's fundamental rights and freedoms. The Chancellor of Justice also has competence to settle disputes of discrimination between private persons under the Constitution and the laws. The objective of the Legal Chancellor Act is to ensure protection of the rights of a potentially discriminated person as easily, quickly and efficiently as possible. Upon alleged discrimination cases, a person may have a subjective assessment of the occurrence. Therefore, the Chancellor of Justice offers conciliation solutions that consider the rights of a victim as much as possible. If the fundamental right to equality is violated, the Chancellor of Justice may make a proposal or recommendation to the Parliament, a state agency or other representative of public authority (for example, a recommendation to make a new resolution or apologise to the petitioner).

(From 2004, an independent and impartial Gender Equality and Equal Treatment Commissioner is acting in Estonia. The competence of the Commissioner includes handling all grounds of discrimination. In accordance with the Equal Treatment Act, the Gender Equality and Equal Treatment Commissioner shall provide opinions to persons who have filed applications concerning alleged cases of discrimination and, if necessary, to persons who have a legitimate interest in monitoring compliance with the requirements for equal treatment. The purpose of an opinion is to provide an assessment which, in conjunction with the Equal Treatment Act, the Gender Equality Act, international agreements binding on the Republic of Estonia and other legislation, allows evaluating whether the principle of equal treatment has been violated in a particular legal relationship. The opinion of the Commissioner is an expert opinion and enables a person to evaluate whether it would be appropriate to turn to a court. The proceedings of the Commissioner do not involve any significant expenses to the person. In addition, the functions of the Commissioner include advising and helping of persons to file complaints of discrimination. Those functions of the Commissioner may be considered as a measure that supports efficient implementation of Article 6 of the CERD.

- IV. Kindly provide information or any comments your country might have on the issue of procedural gaps to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), including any legal and judicial frameworks and practices, substantive and procedural measures.
- V. Would your country have any comments on the issue of the impact of reservations on the implementation to the ICERD? Is there a need for reservations any why?
- VI. Would your country have any comments concerning Article 14 of the ICERD (declaration by State Party recognizing the competency of the Committee to receive/consider individual complaints)?
- VII. Which CERD recommendations has your country implemented with regard to national mechanisms and xenophobia, including any legal and judicial frameworks and practices, substantive and procedural measures? What has been your national experience (including challenges) in this regard?

With reference to response to question II, the amendments planned to implement the recommendations by the CERD concerning penal law are still being discussed.

- VIII. How is assistance provided to victims and/or affected communities of racism, racial discrimination, xenophobia and related communities participate fully and effectively in relevant processes and national mechanisms?

According to the Victim Support Act all persons (including the victims of racism, racial discrimination and related intolerance) who have fallen victims to negligence, mistreatment or physical, mental or sexual abuse, i.e. all those to whom suffering or injury have been caused, are entitled to victim support. Any person who has been subject to suffering or injury has access to counselling regardless of whether the identity of the perpetrator has been disclosed or criminal proceedings have been brought against the person.

The purpose of the victim support service is to maintain or to improve a victim's ability to cope. For improved coping, a victim needs both emotional support and information on the forms of assistance available (such as psychological counselling, legal assistance etc), and guidance on how to address the organisations. If a victim is assisted in due course, their coping ability can be maintained.

The law provides for the establishment of a network of victim support centres in all counties. The main duty of regional victim support services is to create and employ a network of organisations in the region

which offer assistance and services to victims of crime, and to develop and strengthen this network where possible.

IX. With regard to the topics of this questionnaire:

- a) Kindly indicate any possible recommendations your country would wish to provide; and,
- b) Are there any additional comments or information your country wishes to provide in relation to xenophobia, national mechanisms or procedural gaps?