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العنصرية والتمييز العنصري وكره الأجانب وما يتصل بذلك من أشكال التعصب، متابعة وتنفيذ إعلان وبرنامج عمل ديربان
تقرير المقرر الخاص المعني بالأشكال المعاصرة للعنصرية والتمييز العنصري وكره الأجانب وما يتصل بذلك من تعصب، السيد دودو دين

إضافة

البعثة التي قام بها إلى إستونيا*

* يُعمم موجز هذه الوثيقة بجميع اللغات الرسمية. أما التقرير، المرفق بالموجز، فيُعمم باللغة التي قُدم بها فقط وبدون تحرير رسمي. وقد قُدم التقرير متأخراً حتى يتضمن أحدث المعلومات.

موجز

بدعوة من حكومة إستونيا، وعملاً بولاية المقرر الخاص المعني بالأشكال المعاصرة للعنصرية والتمييز العنصري وكره الأجانب وما يتصل بذلك من تعصب، قام المقرر الخاص بزيارة إلى إستونيا في الفترة من ٢٥ إلى ٢٨ أيلول/سبتمبر ٢٠٠٧. وعقد المقرر الخاص اجتماعات مع السلطات من الأجهزة التنفيذية والتشريعية والقضائية، ومع ممثلي المجتمع المدني، وجماعات الأقليات وضحايا العنصرية، والتمييز العنصري وكره الأجانب وما يتصل بذلك من تعصب.

ويخلص المقرر الخاص إلى أن السلطات الإستونية، لا سيما رئيس الوزراء، قد أبدت إرادة سياسية لمعالجة المشاكل المتعلقة بالعنصرية والتمييز العنصري في البلد، مبرزاً مع ذلك أن هذه الإرادة ينبغي باستمرار تعزيزها وتحويلها إلى إجراءات ملموسة. ويؤكد المقرر الخاص أيضاً أن إستونيا قد وضعت بعض المؤسسات التي تهتم جيداً بالقضايا ذات الصلة بولايتها.

ووقف المقرر الخاص أيضاً على بعض المجالات المثيرة للقلق، وأولها ما يتعلق بثلاث جماعات متميزة في إستونيا وهي: الأقلية الناطقة بالروسية، وجماعة الروما والمهاجرون غير الأوروبيين. وترتبط القضايا التي تشغل بال الجماعة الناطقة بالروسية ارتباطاً مباشراً بمسألة انعدام الجنسية، التي تمس معظم هذه الفئة، وبالسياسة اللغوية التي ينفجها البلد، والتي يُنظر إليها على أنها محاولة لحذف اللغة الروسية. أما جماعة الروما في إستونيا، فعلى صغر حجمها، تعاني، كما هو شأنها في سائر أوروبا، في معظم الأحيان التمييز الهيكلي، وضعف التعليم والتهميش. وأخيراً، تعيش الأقليات غير الأوروبية ارتفاعاً شديداً في أعمال العنف العنصري، لا سيما من قبل الجماعات المتطرفة وتعاين تعصب بعض الأفراد فيما يخص تنوعهم الإثني والديني والثقافي. ورغم أن كلاً من هذه الجماعات يواجه أنواعاً مختلفة من المشاكل، فإن إيجاد حل حقيقي في الأجل الطويل لا يمكن أن يتحقق إلا بالتركيز على تعزيز التعددية الثقافية واحترام التنوع.

ويلاحظ المقرر الخاص أن إستونيا، شأنها شأن بقية بلدان منطقة البلطيق، توجد في مفترق طرق من تاريخها. ذلك أن السيطرة والاحتلال السوفياتيين قد خلفا جروحاً لم تندمل بعد، مما يضر كثيراً بدينامية العلاقات بين الجماعات. ولعل التحدي الرئيسي الذي تواجهه إستونيا حالياً هو بناء مجتمع ديمقراطي عادل متفاعل متعدد الثقافات يراعي ضرورة التأكيد من جديد على استمرارية هوية البلد القومية، التي زعزعها الاحتلال ونال منها بشدة، مع الاعتراف بحقوق الأقليات التي قدمت أثناء الاحتلال وبعده واحترام هذه الحقوق. ومن أجل التغلب على التوترات التي تثيرها هذه العملية فيما يخص الهوية، سيتعين على إستونيا أن تُبين عن بصيرة سياسية، ويقظة قانونية وإبداع ثقافي من أجل خلق شعور دائم بالانتماء والعيش سوية مما سيمكن مختلف جماعاتها من الالتحام. وفي هذه العملية، ينبغي إتباع مبدأين هما: احترام الحقيقة التاريخية؛ وعدم التمييز ضد الأقليات. ولتنفيذ هذه الاستراتيجية بالكامل، ستكون العوامل الوطنية والإقليمية ذات أهمية رئيسية بالنسبة للجماعات الناطقة بالروسية. ذلك أن الاحترام الكامل لحقوقها، من حيث المواطنة، واللغة، والثقافة والقضاء على أي شكل من أشكال التمييز، أمر وثيق الارتباط بإشراك هذه الجماعات ومشاركتها في عملية بناء أمة جديدة متعددة الثقافات تحترمها بلدان المنطقة كافة احتراماً تاماً.

ويقدم المقرر الخاص عدداً من التوصيات، بما فيها التوصيات التالية:

- ينبغي لسلطات الدولة أن تؤكد من جديد وباستمرار إرادتها والتزامها السياسيين بمكافحة جميع أشكال العنصرية والتمييز
- ينبغي للحكومة أن تعتمد قوانين وطنية شمولية تغطي جميع أشكال التمييز في شكل وثيقة قانونية شاملة
- ينبغي للحكومة أن تضع ممارسات فضلى ومبادئ توجيهية عامة من أجل الملاحقة القضائية بشأن قضايا التحريض على الكراهية العنصرية والجرائم المرتكبة بدافع عنصري
- ينبغي للحكومة أن تواصل تعزيز قدرة مستشار العدالة، بما في ذلك من حيث الموارد المالية والبشرية، من أجل العمل بشكل دقيق بشأن ادعاءات الجرائم العنصرية والتحريض على الكراهية العنصرية، أو الإثنية أو الدينية
- ينبغي لإستونيا أن توقع اتفاقية عام ١٩٥٤ المتعلقة بوضع الأشخاص عديمي الجنسية واتفاقية عام ١٩٦١ المتعلقة بالحد من انعدام الجنسية
- ينبغي للسياسة اللغوية في إستونيا أن تخضع لنقاش مفتوح وشامل، بالتشاور الوثيق مع الأقليات الإثنية، بهدف إيجاد استراتيجيات تجسد بشكل أفضل الطابع اللغوي المتعدد للمجتمع الإستوني
- ينبغي للحكومة أن تحدث عملية تشاور واسعة بهدف تقليص الفجوة الحاصلة في المفاهيم التاريخية بين الجماعتين الناطقتين بالإستونية والروسية
- إلى جانب وضع استراتيجية سياسية وقانونية، ينبغي للحكومة أن تعتمد، بالتعاون مع المجتمع المدني، استراتيجية أخلاقية وثقافية تواجه أعمق جذور العنصرية، وكره الأجانب والتعصب وتقوم على أساس النهوض بالمعرفة المتبادلة للثقافات، والقيم، والتفاعل بين مختلف الجماعات والربط بين مكافحة العنصرية وكره الأجانب والتمييز وبناء مجتمع ديمقراطي عادل ومتفاعل متعدد الثقافات في الأجل الطويل.

Annex

**REPORT SUBMITTED BY SPECIAL RAPPOREUR
ON CONTEMPORARY FORMS OF RACISM, RACIAL
DISCRIMINATION, XENOPHOBIA AND RELATED
INTOLERANCE, DOUDOU DIENE, ON HIS MISSION
TO ESTONIA (25-28 SEPTEMBER 2007)**

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I. INTRODUCTION

1. At the invitation of the Government, the Special Rapporteur visited Estonia (Tallinn, Tartu and Jõhvi) from 25 to 28 September 2007. He met with the Prime Minister, the Ministers for Interior, Justice, Population Affairs and Social Affairs, officials at the Ministry of Foreign Affairs, the Director-General of the Citizenship and Migration Board, the Director of the Language Inspectorate and the Head of the Prison of Tartu. He also met with the President of the Supreme Court and the Chairman of the Parliament Cultural Affairs Committee. After the formal conclusion of the mission, the Special Rapporteur also met with the Minister for Education and Research on 19 October 2007 in Paris.

2. Apart from the agenda with the government and state institutions, the Special Rapporteur also had extensive meetings with representatives of civil society organizations that are active in the realm of racism and xenophobia, minority communities as well as victims of racism and racial discrimination. He also participated in a roundtable held in Jõhvi with national minorities living in the north-eastern region of Estonia.

3. The Special Rapporteur wishes to express his gratitude to the Government of Estonia for its cooperation and openness throughout the visit and in the preparatory stages.

II. GENERAL BACKGROUND

A. Historical and political context

4. The historical origins of Estonia date back to many centuries, with specific references to the name of Estonia occurring in the ninth century. Estonia was one of the last regions in Europe to be Christianized during the Northern Crusades in the late twelfth century. Throughout the Middle Ages, Estonia fell under Livonian, Lithuanian-Polish and Swedish control, until Russia defeated Sweden in the Great Northern War in 1721. During the early period of Russian control, a number of reforms were introduced, including abolishing serfdom, granting peasants the right to own property and freedom of movement. In this context, a particularly important period of Estonian history started, traditionally called the “national awakening”, where Estonian language, culture and traditions were revived. However, after Alexander III became the Russian ruler, a deliberate attempt of Russification of Estonia started, which included the introduction of Russian as the official language in 1887.

5. With the outbreak of the Russian revolution of 1905, demands for national autonomy and civil and political rights started to grow. However, independence was only achieved after the Bolshevik Revolution and declared in 1918, after a brief period of German occupation during the First World War. Despite an unsuccessful attempt of invasion by the Soviet Army, the Republic of Estonia was created, adopting a Constitution in 1920, gaining international recognition and joining the League of Nations.

6. During the interwar years, rapid economic, social and cultural changes took place, including in the organization of state structures. In particular, Estonian language schools were widely disseminated. In 1925, a law on the cultural autonomy of minority groups was passed, turning Estonia in one of the first countries to adopt such type of legislation.

7. Estonia’s history, as that of the other Baltic States, was severely affected by the outbreak of the Second World War. The Molotov-Ribbentrop Pact in 1939 assigned Estonia to the Soviet sphere of influence, prompting the beginning of the first Soviet occupation in 1940. A Soviet-friendly government was set up and mass deportations started to take place, affecting a large part of the

population. During the first year of occupation, around 60,000 people are believed to have been deported – 10,000 of whom during a single night in June 1941. Soviet control was briefly substituted by a Nazi occupation after the end of the non-aggression pact between Germany and the Soviet Union and the advance of German troops. Many Estonians were forcefully conscripted by the Nazi in the war against the Red Army, whereas many others were guided by the failed expectation that a Nazi victory would lead to independence. In particular, as the German-Soviet front reached the region of Narva, massive mobilization carried out by the Nazi and their Estonian collaborators led to the formation of the twentieth Waffen Grenadier Division of the SS in 1944, formed by Estonians.

8. After the German defeat in 1944, the second Soviet occupation started and Estonia became a Soviet republic. The first decade of the occupation, under Stalin, was particularly repressive, as Moscow attempted to implement a policy of Russification of the Baltic states, directly affecting education and cultural activities, including language. Between 1945 and 1953, it is believed that around 80,000 Estonians were deported, mainly to Siberia and Central Asia. The war casualties, massive deportations and migrations from other parts of the Soviet Union drastically changed the ethnic makeup of the population. While before the war 90 per cent of the residents were ethnic Estonians, this proportion fell to 60 per cent by 1990. Most of the political leadership, particularly in the first decades, was made of non-Estonians.

9. The independence of Estonia was restored formally on 20 August 1991, after a process of rapid political changes within the Soviet Union as a whole. Estonia quickly embarked on a policy of rapprochement with the West, engaging in profound economic reforms to integrate into the global markets. In 2004, Estonia acceded to the EU and NATO. The adaptation of legislation to the *acquis communautaire* led to important changes in policies that directly affect the fight against racism, racial discrimination, xenophobia and related intolerance.

B. Demographic, ethnic and religious composition

10. Estonia has a population of 1,342,409, out of whom 68 per cent are ethnic Estonian. The largest minority is composed of ethnic Russians, which form 25 per cent of the population. Other sizeable minorities are Ukrainians (2 per cent), Byelorussians (1.2 per cent) and Finns (0.8 per cent). Tatars, Latvians, Poles, Jews, Lithuanians and Germans jointly represent some 1 per cent of the population.

11. Evangelical Lutheranism is the dominant religion, with some 13.6 per cent of the population, closely followed by Orthodox, with 12.8 per cent. Some 34.1 per cent of the population are unaffiliated. Thirty-two per cent of the population have unspecified or other religions. Around six per cent of the population has no religious affiliations.¹

12. An important demographic distinction is between citizens, foreigners and persons of undefined nationality (stateless). Presently, there are 112,049 stateless persons in Estonia, which amounts to 8 per cent of the population. Tallinn, with 51,253 stateless persons, and East-Virumaa are especially affected. The majority of stateless persons (around 52 per cent) were born in Estonia.

¹ Census 2000.

C. Political structure

13. Estonia is a parliamentary democracy whose government is headed by the Prime Minister. The Head of State is the President. The unicameral Parliament (*Riigikogu*) is composed of 101 members and is elected through a system of proportional representation. A multiparty system is in place, and government has traditionally been coalitional. Only citizens have the right to vote in national elections. Non-citizens, however, have the right to vote in municipal elections.

D. International human rights instruments

14. Estonia is party to the core international human rights instruments, including the International Covenant on Civil and Political Rights and its first Optional Protocol, the Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). At the European level, Estonia has ratified the Council of Europe Framework Convention for the Protection of National Minorities.

15. Estonia is not a party to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness.

16. Estonia has yet to become a party to other legal instruments that are relevant for questions of racism and discrimination, including Protocol No. 12 to the European Convention on Human Rights on general non-discrimination (signed, but not ratified), the European Convention on Nationality (not signed), the Convention on the Participation of Foreigners in Local Public Life at Local Level (not signed) and the European Charter for Regional or Minority Languages (not signed).

E. Methodology

17. The Special Rapporteur carried out extensive meetings with authorities at the executive, legislative and judiciary branches to collect their views and opinions concerning racism and xenophobia in Estonia, the adequacy of the existing legal framework and the programmes and policies adopted by the authorities to fight these problems. Additionally, an agenda with civil society organizations, communities and minority groups, victims of discrimination and journalists was organized.

18. In order to comprehensively and objectively assess the situation, the Special Rapporteur structured his meetings with all his interlocutors around three questions: (i) Is there racism, racial discrimination, xenophobia and related intolerance in Estonia? (ii) If this is the case, what are their main manifestations and expressions and the communities affected? (iii) What are or should be the governmental policies and programmes to fight these phenomena at the political, legal and cultural levels?

19. Section II of this report analyzes the political and legal strategy adopted by state institutions, with a particular focus on the perceptions of state officials concerning the problems related to racism and discrimination in the country. Subsequently, on Section III, the views of civil society organizations, representatives of minorities and victims of discrimination are introduced. This is followed by an analysis of the situation by the Special Rapporteur on Section IV and his recommendations to the Estonian government on Section V.

III. POLITICAL AND LEGAL STRATEGY OF THE PUBLIC AUTHORITIES

A. Legal and institutional framework to combat racism and racial discrimination

1. Constitutional and legislative provisions

20. The Constitution of Estonia establishes the general right to non-discrimination under its Article 12, which provides that “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”. This principle is further specified in the Penal Code (§ 152), which establishes a possibility of punishment by fine, detention or one year of imprisonment to any “unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, financial or social status”.

21. Article 12 of the Constitution provides that “the incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable”. The Penal Code (§ 151) increases the scope of the prohibition by referring additionally to colour, sex, language, origin, sexual orientation, financial or social status. Different levels of punishment are established, ranging from a fine to 3 years of imprisonment.

22. According to the Penal Code, a first time violation of the provisions of non-discrimination and non-incitement to hatred are considered as a misdemeanour, punishable by fines or detention. Only when the violation causes “substantial damage” to another person’s rights or represents a repetition of the same type of violation by the perpetrator is it punishable by imprisonment.

23. Ethnic minorities are also entitled to specific rights defined in the Constitution. Article 49, in particular, ascertains that “everyone shall have the right to preserve his or her ethnic identity”. Article 50 establishes that “ethnic minorities shall have the right, in the interests of their national culture, to establish institutions of self-government in accordance with conditions and procedures determined by the Law on Cultural Autonomy for Ethnic Minorities”.

24. The Constitution defines Estonian as the official language of the state and local government (Article 52). However, it also allows for local government authorities in regions inhabited by a majority of non-Estonian speakers to use the language of the majority “for internal communication to the extent and in accordance with procedures determined by law”. In regions where at least half of the residents belong to an ethnic minority, the Constitution provides for the “right to receive answers from state and local government authorities and their officials in the language of that ethnic minority” (Article 52).

2. Citizenship legislation

25. Estonia’s citizenship policy after the restoration of independence was based on the doctrine of legal continuity of the state. According to this principle, the end of the Soviet occupation did not create a new state, but rather restored a previously existing state whose independence was interrupted by forcible annexation into the USSR. The first steps after the end of occupation were to restore the political and legal framework that existed in 1940, including

the Constitution. Therefore, only those persons that enjoyed citizenship prior to 1940 and their direct descendents were recognized as citizens after the restoration of independence. Those citizens of the former Soviet Union who immigrated to Estonia during the Occupation became stateless persons. For this group, the only option available to become Estonian citizens was to apply for citizenship through naturalization.

26. Although the fundamental *jus sanguinis* principle of citizenship is defined by the Constitution, the specific regulations for the acquisition of Estonian citizenship are established by the Law on Citizenship. Article 6 of the Law, in particular, defines a set of criteria that need to be met by aliens who wish to receive the Estonian citizenship through naturalization. These include: (i) a minimum age of 15; (ii) permanent residence in Estonia for five years; (iii) knowledge of the Estonian language; (iv) knowledge of the Estonian Constitution and the Law on Citizenship; (v) a permanent lawful income sufficient to support the alien and his or her family; (vi) loyalty to the state of Estonia; (vii) an oath of citizenship.

27. Specific requirements are also established for the language examination in the Law on Citizenship. The general demand is that the applicant demonstrates knowledge of the language “required for day to day life”. Such knowledge is deemed to include listening comprehension, conversation, reading comprehension and writing. All persons who have completed basic, secondary or higher education in Estonian language are exempted from the exam. An amendment to the Law on Citizenship in 2004 defined that the Government would reimburse the costs of language courses incurred by applicants to Estonian citizenship who successfully passed the language exam. According to the new Programme for Integration of Society, language courses of less secured persons will be financed by the State.

28. State authorities highlighted that the language requirements for the naturalization procedure have been drastically facilitated in the past years. The Special Rapporteur’s state interlocutors emphasized that presently the language exam only requires a very basic knowledge of Estonian and is no longer the reason why non-citizens do not apply for citizenship. Rather, many authorities believe that the range of rights to which non-citizens are entitled, which is seen as closely resembling those of citizens, in effect disincentives many people to apply for citizenship, as this would bring about few material changes.

3. Language legislation

29. Apart from the language requirements for the acquisition of Estonian citizenship, the broader application of regulations concerning the Estonian language in public and private life are contained in the Language Act. It establishes Estonian as the official language and “any language other than Estonian” as a foreign language (§2), including the languages of national minorities.

30. The Language Act defines particular requirements for proficiency and use of Estonian language. Although these requirements were reduced after amendments to the Act, they still include a number of areas, including: (i) public servants and employees of state agencies (national or local) “must be able to understand and shall use Estonian at the level which is necessary to perform their service” (§ 5.2); (ii) employees of companies, non-profit associations and sole proprietors in industries that offer goods or services and forward information also must have the adequate level of Estonian to perform their duties “if it is justified in the public interest”. Three levels of proficiency are defined by the Act: basic, intermediate and advanced,

which are tested through language proficiency examinations organized by the State. Language requirements for naturalization only demand a basic level of proficiency. The skill requirement must be substantiated and proportionate to the aim pursued by the person.

31. In local governments where the majority of permanent residents belong to a national minority, the language of the national minority may be used alongside Estonian as the internal working language, subject to a request by the municipal council and approval of the Government of the Republic (§ 11). Communications with state agencies and other local governments, however, are required to take place in Estonian (§ 12). This same principle is valid for cultural autonomy bodies of national minorities.

32. Supervision of the Language Act is carried out by the Language Inspectorate, a governmental body created in 1991. The Act further establishes that violations to its provisions are subject to administrative liability. In his meeting with the Director of the Language Inspectorate, the Special Rapporteur was informed that the Inspectorate focuses its supervision activities primarily in the public sector, but also monitors private companies that have direct contact with customers. He further added that the main objective of the Inspectorate is not to prohibit the usage of foreign languages, but rather to guarantee the usage of Estonian. In particular, the main motivation behind the creation of the Language Inspectorate was to restore the position of Estonian language in society, reversing the Soviet policy that was centred on the need to promote the Russian language among Estonians.

33. The Director of the Language Inspectorate also explained that the Inspectorate regularly visits public and private institutions in order to assess whether the language level of employees is compatible with the requirements of their position. Whenever a person who works in a position that demands a certain level of proficiency in Estonian fails to meet that requirement, the State covers the costs of the language courses that are required to the person to be reassessed. Language oversight in regular establishments is in the vast majority of cases pre-scheduled with one month in advance (one year for schools). Only in limited cases can the oversight take place without previous warning.

4. Law on cultural autonomy of national minorities

34. The particular cultural autonomy rights of national minorities are established by the Law on Cultural Autonomy of National Minorities. In the Law, national minorities are defined as the citizens of Estonia who “reside on the territory of Estonia”, “maintain longstanding, firm and lasting ties with Estonia”, “are distinct from Estonians on the basis of their ethnic, cultural, religious, or linguistic characteristics” and “are motivated by a concern to preserve together their cultural traditions, their religion or their language which constitute the basis of their common identity”. The Law further establishes that “national minority cultural autonomy may be established by persons belonging to German, Russian, Swedish and Jewish minorities and persons belonging to national minorities with a membership of more than 3000”.

35. These national minorities as defined by the Law are entitled to specific rights, including the right to form cultural and educational institutions, religious congregations and ethnic organizations, to use their mother tongue “within the limits established by the Language Act”, and to publish, circulate and exchange information in the mother tongue. Other specific rights are contained in paragraph 4 of the Language Act.

36. Due to the definition of ethnic minorities as being composed by citizens, stateless persons living in Estonia are unable to benefit from the rights established by the Law. This definition was further stated in Estonia's declaration when it ratified the Council of Europe's Framework Convention for the Protection of National Minorities, when it declared that its understanding of the term national minorities is that contained in the Law on Cultural Autonomy of National Minorities. Under the Law, non-citizens "may not vote or be elected or appointed to the leadership of the institutions of cultural self-government", but may take part in their activities (Article 6).

5. The Chancellor of Justice

37. The position of Chancellor of Justice was created by the Constitution as an independent official, appointed by Parliament, in charge of overseeing that all the proposed legal acts, both in national and local governments, are in accordance with the Constitution and overall legislation. Apart from investigating issues of constitutionality, the Chancellor of Justice is empowered to receive petitions containing allegations of violations of rights established in the Constitution or other legislation.

38. With the passing of the Chancellor of Justice Act in 1999, the Office gained new responsibilities, in particular the function of ombudsman, and has since then more centrally focused on the protection of fundamental rights and freedoms. Furthermore, in 2004, new amendments to the Act empowered the Chancellor of Justice to deal with cases of discrimination, both in the public and in the private sectors. Since 2001, the Chancellor of Justice engaged in a strategy to open regional offices, particularly in the north-eastern regions, which have a higher proportion of stateless persons and minorities.

39. The Chancellor of Justice underlined that he has a key role to change attitudes within society, fighting the underlying reasoning that motivates racism rather than solely its consequences. To achieve this goal, the Chancellor expressed his engagement in activities such as awareness-raising, research, training and monitoring. In particular, his Office has organized training courses for civil servants working in other departments in order to explain the nature of human rights and obligations thereof.

B. Policies and programmes to combat racism, racial discrimination, xenophobia and related intolerance

40. According to Estonian authorities, apart from the existing legal framework and its monitoring by the Chancellor of Justice, a number of initiatives are being developed to promote tolerance, respect for diversity and, ultimately, integration of racial, ethnic and religious minorities in Estonia.

41. One of the frameworks for consultation with national minorities created by Estonia is the President of the Republic's Roundtable on National Minorities, which is mandated to propose specific recommendations in several areas, including "the resolution of the socio-economic, cultural and legal problems of aliens and stateless persons permanently residing in Estonia as well as of ethnic minorities"; "support for persons seeking Estonian citizenship"; language-related issues; and preservation of cultural and ethnic identity of minorities.

42. Representatives of the Ministry of Social Affairs highlighted that non-discrimination is an important topic on the Ministry's agenda. In effect, the Ministry coordinated the European Year of Equal Opportunities for All 2007 in Estonia, prompting the organization of several awareness-raising actions among the population in general and minorities in particular, focusing not only on the respect for diversity but also educating the population concerning the existing legislation on non-discrimination. The collection of data concerning the main forms of discrimination was highlighted by Ministry officials as a central priority and the subject of various ongoing research projects during the year.

43. The Office of the Minister of Population Affairs is more directly engaged in efforts to promote minority cultures, particularly by financing associations of national minorities, which are entitled to receive public funds to develop cultural activities. The Office of the Minister was also involved in the preparation of the Strategy for Integration of Society (2008-13), in cooperation with the Integration Foundation, a body set-up in 1998 to prepare, coordinate and execute projects that aim to foster the integration of Estonian society. During the drafting process, around 200 amendments to the strategy were received from members of civil society, including minority organizations, and a broad process of consultation was established. According to officials, this Strategy was designed to further strengthen the Government's support of ethnic minorities. It will address the problem of social and political exclusion of large ethnic groups, which is viewed as an important challenge for integration, as well as the need to focus on regional differences in integration and to deepen cooperation with local governments. The Strategy has as its main objective the promotion of cultural diversity, specifically through the preservation of the linguistic and cultural distinctiveness of minorities, whilst creating a common sense of unity around core Estonian values, in particular Estonian language and Constitution, and promote participation in social, economic and cultural life.²

44. An important realm for the respect of diversity and multiculturalism are state agencies that deal directly with non-citizens as well as refugees, asylum-seekers and migrants. The Special Rapporteur was informed that the Citizenship and Migration Board has developed in-house trainings to prepare its staff to respect diversity. Compulsory training programmes on human rights and multiculturalism are also in place for all employees of reception centers for asylum-seekers and refugees as well as deportation facilities.

C. Perceptions and reactions of State officials and Government agencies

45. The majority of state authorities recognized the existence of racism and discrimination in Estonia, whilst highlighting the actions and programmes taken by the government to fight these problems. The Prime Minister, in particular, stated that although some people in Estonia, as in other countries, are intolerant and even violent towards foreigners, the Government has a very strong stance against this behaviour. This stance is reflected in the Constitution and other legislation, which unambiguously prohibit any form of racism and discrimination. The Government's position is to recognize the problems of the past as a means to avoid them in the future. In this regard, the Prime Minister made a specific reference to the issue of anti-Semitism

² See Strategy for Integration of Society 2008-2013 at www.rahvastikuminister.ee/public/integration_strategy_english_version.pdf.

and the collaboration of Estonians with the perpetrators of the Holocaust, emphasizing that the Government had already formally apologized for this period of history and is taking all measures to protect the Jewish community.

46. The Prime Minister also recognized the complex situation of the Russian minority, especially in view of the recent historical background. He highlighted important differences within the Russian community, which reached Estonia in different historical periods over the past two centuries, from the arrival of the old believers to the more recent wave of migration during Soviet times. The Prime Minister pointed out that the Russian community has refrained from engaging in nationalist parties, which has allowed for the strengthening of non-ethnic, mainstream parties.

47. The Special Rapporteur asked government interlocutors about the high number of stateless persons. Most authorities saw the large number of persons of undefined nationality not as evidence of discrimination, but rather as an outcome of large-scale historical processes that placed communities in conflictive situations. Some state authorities, particularly the Chancellor of Justice, recognized that the elevated number of non-citizens represents a concrete problem, whilst underlining the positive steps taken by the Government in order to facilitate the granting of citizenship. According to many authorities, the simplification of citizenship application, including of language requirements, directly contributed to the reduction of the number of persons of undefined nationality from around 500,000 in the early 1990s to 112,000 at present.

48. One of the barriers to reducing the number of stateless persons, according to some State officials, is a lack of incentives for non-citizens to apply for citizenship. In particular, it was pointed out by many authorities, including the Ministers of Interior and Justice, that over the past years, the Government has made a strong effort to facilitate citizenship procedures, which in their views transformed Estonia's legislation into one of the most liberal in the world. In the view of many authorities, many non-citizens choose not to apply for citizenship because of the limited additional benefits of becoming a citizen.

49. The Prime Minister also focused on the need to bridge the gap in the interpretation of history between the Estonian and Russian communities, particularly regarding symbolic events such as the Second World War, collaboration with the Nazis and the meaning of the Soviet occupation. This gap in historical perceptions was demonstrated in April 2007, during the crisis around the relocation of a monument in homage to the Soviet soldiers that died during the Second World War. A problem mentioned by some authorities is that history has been instrumentalized in some occasions in order to question the right of Estonia to exist as a legitimate state. The Prime Minister emphasized the importance of developing a common understanding of history among the different communities living in Estonia.

50. In this regard, the Special Rapporteur received the information that an Institute of Memory was established on 1 February 2008 by the President, which will look into the human rights violations committed in the country in the period 1944-1991. According to the government, the aim of the Institute is to better understand the past, in a manner that is not politicized, in order to cope with the present.

51. Apart from the issues related to citizenship and integration of the Russian-speaking minority, the Special Rapporteur also focused on the problem of mounting racist violence,

particularly by extremist groups, some of which were believed to be active in Tartu. In this regard, the Ministry of Interior emphasized that the existing legislation already contains all the necessary provisions for law enforcement officials to prosecute cases of racist crimes, making particular reference to the provisions in the Penal Code concerning genocide, incitement to hatred, discrimination and freedom of religion. The Minister of Justice also emphasized the Government's commitment to tackle this problem, underlining that many foreign groups have attempted to organize extremist activities in Estonia, but have been under constant surveillance by security forces. In response to the Special Rapporteur's inquiry on whether there is a need for new provisions qualifying racism as an aggravating factor for racially motivated crimes, the Minister expressed the view that this particular issue is already covered in the Constitution and the Penal Code.

IV. VIEWS OF CIVIL SOCIETY AND COMMUNITIES CONCERNED

A. Concerns in response to State policies and measures

52. Representatives of civil society, minorities and victims of discrimination, conveyed their strong perception that there are several expressions of racism and discrimination within the Estonian society. Despite the different concerns expressed by each particular community, a common threat that was distilled by the Special Rapporteur regards the policies designed to strengthen and reaffirm a core Estonian identity, which are viewed as an attempt to suppress the diversity and distinctiveness of their own particular identities. These identity tensions are directly reflected in issues as distinct as language, citizenship and intolerance, which were highlighted by representatives of all minorities.

53. Civil society considers that there is a weak institutional framework as well as a lack of political will to revisit issues of language and citizenship, which in their view are the major obstacles for the full protection against racism and discrimination. One of the main mechanisms of consultations with minorities, the President of the Republic's Roundtable with Ethnic Minorities, was seen as ineffective by most of the interlocutors in civil society. In particular, the recommendations that were debated and formulated in the meetings of the Roundtable were seen as merely formal commitments, with no concrete effect on policy.

54. The Special Rapporteur has identified three main groups that are vulnerable to racism, discrimination and xenophobia in Estonia, who nevertheless face distinct problems. The Russian-speaking minority, particularly ethnic Russians, is mostly affected by the problem of statelessness as well as language restrictions. The Roma community and non-European minorities have been a vulnerable target for racist attacks and suffer from negative stereotyping. The Roma, in particular, have historically faced cultural stigma and structural discrimination that directly hinders their ability to fully enjoy their rights.

B. Views of the Russian-speaking community

55. Estonia has a large Russian-speaking community, which is composed mostly of ethnic Russians but also includes smaller groups of ethnic Byelorussians and other minorities. Ethnic Russians arrived in Estonia during different waves of migration that extended from the sixteenth century, with the arrival of the old believers, to the aftermath of the 1917 Revolution. The largest part of the Russian community migrated forcefully or voluntarily during the Soviet occupation.

However, in view of the different waves of Russian migration, it is inaccurate to speak of a unified ethnic Russian minority, since members of this group have different degrees of integration into the Estonian society (e.g. in terms of language) as well as different legal status. To refer to those former USSR citizens that immigrated to Estonia during the Soviet occupation, the Special Rapporteur uses the term Russian-speaking community.

56. The Special Rapporteur held extensive meetings with representatives of the Russian-speaking community in order to collect their views and concerns. Members of the community expressed the view that the most important form of discrimination in Estonia is not ethnic, but rather language-based. In particular, it affects directly the Russian-speaking persons who either migrated or were born in Estonia during the period of the Soviet occupation.

57. Although the language requirements for citizenship applications were pointed out as problematic by some members of the community, the majority of interlocutors argued that the problem with language discrimination is more general, concerning the overall language policy in Estonia. The Russian-speaking community perceives the existing language policy as an attempt to suppress Russian as a legitimate minority language in the country, not only in public affairs, but also in the private domain. The role of the Language Inspectorate and its mandate to conduct language oversight in public and private institutions was strongly criticized and referred to by some interlocutors as a “language police”.

58. Representatives of the Russian-speaking community argued that the lack of recognition by Estonian authorities of the legitimate existence of Russian is seen more concretely in the educational system. They argued that the number of Russian-speaking schools is much lower in proportion to the number of Russian-speaking students than the number of Estonian-speaking schools. Educational reform, which will introduce a mandatory minimum of 60 per cent of courses that need to be taught in Estonian-language, was also viewed with concern. In many cases, according to community representatives, this will imply that Russian-speaking teachers will have to teach in Estonian in classes composed exclusively of Russian-speaking students. The Special Rapporteur’s interlocutors underscored their preoccupation regarding the decrease in the quality of education for pupils, since many students of the Russian-speaking community with poor language skills in Estonian will have to follow a large part of the school curriculum in Estonian language. Furthermore, the concern regarding education reform extended to the situation of Russian-speaking school teachers, many of whom fear for their jobs.

59. The Special Rapporteur’s interlocutors also emphasized that statelessness remains a central problem that mostly affects the Russian-speaking community. They highlighted that although the overall citizenship application procedures have been facilitated, they still pose problems to a number of vulnerable groups. The cost of language courses in Estonian was seen as a major obstacle for the economically marginalized segments of the population. The reimbursement of the expenses with language courses was not seen as helpful, since it only applies after the exam and covers exclusively candidates that are successful in the language examinations. The Special Rapporteur was informed that many candidates need to take the exam more than once, which entails an even higher cost. The situation of Russian-speaking elders was also considered as vulnerable, since the majority of people within this group have difficulties in terms of language instruction.

60. The Russian-speaking community also expressed concerns about their overall situation of social marginalization. The process of deindustrialization affected particularly the Russian community in North-Eastern Estonia. The Special Rapporteur was informed that the unemployment rate among Russian-speaking persons is almost twice as high as among Estonians. Furthermore, Russian-speakers earn lower average salaries and are allegedly overrepresented within the prison population.

61. The overall perception among members of the Russian-speaking community was that the key obstacle for the understanding among the Estonian and Russian-speaking communities was the view that the loyalty of the Russian-speakers to the Estonian state is questionable. The community highlighted that most of the Russian-speakers settled in Estonia many decades ago, and over half of the community was born in Estonia. They underlined the importance that the role of large segments of the Russian-speaking community in the process that led to Estonia's restoration of independence should be recognized. Human rights NGOs pointed out that although there are obvious cultural links between the Russian-speaking community and the Russian Federation, existing sociological surveys show that these links are cultural and not political. However, their perception is that the members of the Russian-speaking community are treated as foreigners rather than people with long roots in Estonia. One of the Special Rapporteur's interlocutors argued that "we suddenly became migrants without ever leaving our homes".

C. Views of the Roma community

62. The Special Rapporteur held meetings with representatives of the small Roma community in Estonia, composed of 588 members according to official statistics. One of their main concerns refers to the non-recognition of the long history of the Roma in Estonia, and particularly of the tragic events surrounding the community during the Holocaust. One of the interlocutors pointed out that the construction of a monument to honour the Roma killed during the Second World War did not receive any financial support from the State.

63. The Roma community, despite its small size, referred to important problems they face, particularly concerning socio-economic marginalization. Education was pointed out as one of the key obstacles for the integration of Roma in the Estonian society. Roma children suffer from much higher dropout and drastically lower educational achievement rates, which directly affect their ability to enter the labour market.

64. Roma representatives also pointed out to more profound problems related to the cultural stigmatization and lack of tolerance towards the Roma community, which is often seen through stereotyped lenses and concepts. This lack of acceptance of Roma traditions and history by the society at large was pointed out as a key obstacle that prevents the Roma from fully integrating into society.

D. Views of non-European communities

65. The Special Rapporteur also met with representatives of the small but active African and Arab communities. Their concerns are different from the traditional questions of citizenship and language expressed by other minorities. In particular, non-European communities emphasized their view that nationalism, and not necessarily racism, is an important problem that leads directly to discrimination.

66. Nationalism is directly connected to one of the main concerns expressed by the Special Rapporteur's interlocutors: racially motivated crimes, particularly by members of extremist organizations, including neo-Nazi groups. Human rights NGOs and community representatives pointed out that neo-Nazi groups are currently active in Estonia, particularly in Tartu, and have perpetrated acts of violence against non-European minorities. It was underlined that due to the limitations in the legislation against racially motivated crimes and incitement to racial hatred, these groups are still free to operate. The resurgence of racist violence is a particularly distressing trend for members of non-European communities, as several of them moved to Estonia from Russia in order to escape extremist organizations and what they saw as a wave of racist attacks.

67. Relations with law-enforcement officials were also emphasized as an important form of discrimination against non-European minorities, particularly in what concerns border guards. Some cases of harassment by police officers were reported to the Special Rapporteur, and some interlocutors highlighted the existence of informal racial profiling. This has been a sensitive problem for the Arab community, which is affected, particularly since 9/11, with negative stereotypes associating them with terrorists, increasing harassment by the police in general as well as by border guards.

68. Non-European communities emphasized the need to further develop multicultural training programmes for state officials in general, particular those working directly with minorities, refugees, asylum-seekers and migrants, thus preparing them to respect diversity. This was seen as important in view of the gradual arrival of non-European migrants following Estonia's accession to the European Union. On the legal level, more comprehensive legislation was called for, especially in the realm of racially motivated crimes, as well as clear guidelines for the prosecution of cases of incitement to racial and religious hatred.

E. Roundtable with national minorities of the Ida Virumaa region

69. On 27 September, the Special Rapporteur was invited to attend the monthly meeting of national minorities of the Ida Virumaa region in the north-eastern of Estonia. The meeting took place in Jõhvi and gathered representatives of the Russian, Byelorussian, Jewish, Tartar, Finnish, Polish, Ukrainian minorities. A representative of the Estonian community, which is a minority in Ida Virumaa, was also present. The region has a radically different demographic makeup than the rest of the country: 71 per cent Russian, 20 per cent Estonian, 2.8 per cent Byelorussian, 2.8 per cent Ukrainian and 1.4 per cent for other ethnic minorities.

70. The main activities developed by the National Associations in the Ida Virumaa region include cultural festivals, Sunday schools to teach minority languages, history and traditions and the creation and maintenance of integration centres where all minorities can interact.

71. The Special Rapporteur noted with great satisfaction that the main objective of the roundtable with national minorities, as mentioned by the communities themselves, is the constant promotion of national cultures alongside the development of close links and increased interactions among the different communities. In particular, many representatives that attended the meeting referred explicitly to the respect for diversity as the unifying element that connects all minorities. The fact that such an initiative is taking place in a region where a very high

proportion of non-Estonians inhabit illustrates how multiculturalism is the central response to the promotion of tolerance and respect among the different communities.

V. ANALYSIS AND ASSESSMENT OF THE SPECIAL RAPPORTEUR

72. After closely analyzing the statements of government officials and those of civil society organizations, representatives of minorities and victims of racism and discrimination, the Special Rapporteur reached the following conclusions.

73. The Special Rapporteur noted the existence of political will by State authorities to fight the expressions of racism and discrimination in Estonia. In particular, he considers his meeting with the Prime Minister as a sign of the Government's strong commitment at its highest level to fight racism and discrimination. A number of relevant institutions showed a remarkable sensitivity to this cause, including the Chancellor of Justice, the Ministries of Social Affairs and Population Affairs. The Citizenship and Migration Board, within the limits of its mandate and the legislation, is also developing relevant actions to promote respect for diversity and multiculturalism.

74. The Special Rapporteur noted that Estonians have a core national identity that was crafted and refined throughout the years, as the people resisted to different foreign attempts to suppress their distinctiveness. However, Estonia, particularly through historical interactions with its neighbours, also developed a tradition of tolerance, multiculturalism and openness that still permeates Estonian society. Despite the existence of scars from the more recent historical experience of the Second World War, this tradition of tolerance and multiculturalism needs to be strengthened in the deployment of efforts to eradicate racism and discrimination.

75. The Special Rapporteur is particularly impressed by the experience of the Roundtable with National Minorities of the Ida Virumaa region. The members of the Roundtable demonstrate a profound understanding of intercommunity relations, making a deliberate – and appropriate – choice for a process of multicultural integration. In particular, the activities developed by those communities show how it is not only possible, but necessary, to combine the recognition and acceptance of specific identities for each community whilst promoting interactions between the different communities. The fact that this experience takes place in a region largely inhabited by the Russian-speaking community shows the potential of intercommunity relations as a means to foster tolerance and understanding.

76. In what concerns the particular problems faced by ethnic minorities, the Special Rapporteur noted important differences of opinion and assessment between the government and the communities themselves. Although the Estonian society is not viewed as discriminatory by the minorities, they argued that they regularly encounter discriminatory practices that directly affect their capacity to enjoy their human rights. In this regard, the incident with the Russian bronze soldier, particularly the dichotomous reactions it triggered in the Estonian and Russian-speaking communities, show that there are deep discrepancies in perceptions and memories between the two communities, as well as particular grievances that should be addressed in order to improve inter-community relations.

77. One of the main concerns expressed by the Russian-speaking minority concerns statelessness and the perceived discriminatory nature of citizenship regulations. As many

authorities emphasized, the citizenship regulations are not formally discriminatory, as they do not differentiate applicants on the basis of ethnicity, nationality, race or other grounds. However, if one considers the particular historical context in which these regulations exist, especially concerning the demographics of the stateless population, one realizes that the Russian-speaking minority is largely the most affected group. It is in this broader sense, political rather than legal, that the Special Rapporteur considers extremely credible the views of the representatives of the Russian-speaking minorities who expressed that the citizenship policy is discriminatory. The large number of stateless persons currently living in Estonia – around 8 per cent of the resident population – is evidence that a problem exists.

78. The Special Rapporteur is aware that the problem of statelessness in Estonia involves sensitive issues related to the recent historical experience of the country, in particular the need to reaffirm the principle of legal continuity of the state and the reinforcing of the Estonian national identity. He welcomes the Government's decision to extend to persons of undefined nationality the right to vote in local elections. However, he highlights the need to revisit this policy as a means to bridge the significant gap that separates the Estonian and Russian-speaking communities. In particular, he notes the existence of vulnerable groups of non-citizens – elders and socially-marginalized populations – who could enjoy easier access to citizenship, including free-of-charge language courses to prepare for the language exam.

79. The broader language policy put in place in Estonia is viewed as even more problematic by ethnic minorities. The main problem that needs to be addressed concerns the perception by minorities that there is an attempt to suppress the linguistic diversity of Estonia with policies that reinforce the role of Estonian in wide-ranging domains of public and private life. The role of the Language Inspectorate and its mandate to oversee whether people have a minimum knowledge of Estonian contribute to this impression. The Special Rapporteur recognizes the legitimate right of Estonia to protect and promote its official language. However, in order to comply with international instruments, and in order to build tolerance and understanding, minority languages should also be protected.

80. Referring to the crisis in April 2007 concerning the relocation of the statue of the Soviet soldier, many authorities referred to the difficult role of history and symbols in inter-community relations. The large gap in the understanding of history between the Estonian and Russian communities was clearly seen in this case: whereas the Russian community saw the monument as a symbol of respect to those that died fighting Nazi Germany, the Estonian community viewed the monument as a symbol of the start of the Soviet occupation. These conflicting views of key historical events are a major obstacle for the promotion of mutual understanding. The allegation of lack of consultations, made by members of the Russian minority, concerning the decision to relocate the bronze statue and its hastily execution are indicative of the lack of a clear and long-term vision of bridging the gap in memory and symbols between the communities, in particular with the Russian-speaking community.

81. Despite its small size, the Roma community in Estonia, as in most European countries, suffers from stigmatization and structural discrimination that manifests specifically in the realms of education, employment and cultural stereotypes. Although some efforts have been made by the Government, they have not been able to redress the vulnerable conditions faced by Roma residents. Apart from the provision of basic economic, social and cultural rights, authorities should focus on projects that target not only the community itself, but society as a whole. One of

the main reasons for the marginalization of Roma citizens is intolerance and lack of acceptance by society at large, which can only be redressed through a national strategy that promotes cultural diversity and acceptance of multiculturalism and recognizes the historical role of the Roma community in Estonia as well as its tragic fate during the Second World War.

82. Estonia is currently witnessing an embryonic process that has been taking place in many other parts of Europe: the resurgence of racist crimes by extremist organizations, particularly neo-Nazi groups. If not curbed promptly by effective Government action, this problem will tend to become more widespread, particularly in view of the gradual arrival in Estonia of new waves of non-European migration. Effective action needs to focus both on stopping any form of incitement to racial, ethnic, national or religious hatred whilst criminally prosecuting any case of racist aggression.

83. These new migratory trends also raise more profound challenges for the country to overcome concerning the integration of racially, ethnically and religiously different minorities. Apart from the basic respect of the fundamental rights, broad efforts should be made to effectively integrate peoples bearing different traditions, ensuring respect for their culture, religion and customs.

84. The Special Rapporteur notes that Estonia, as the other Baltic countries, is currently at a turning point in history. The legacy of Soviet domination and occupation has left scars that have yet to be healed, profoundly affecting the dynamics of inter-community relations. The main challenge Estonia currently faces is to build a democratic, egalitarian and interactive multicultural society which takes into account both the need to reassert the continuity of its national identity, severely shaken and eroded by the occupation, whilst recognizing and respecting the rights of the minorities that arrived during and after the occupation. In order to overcome the identity tensions fostered by this process, Estonia will have to show political vision, legal vigilance and cultural creativity to develop a long-lasting sense of belonging and living together that bonds its different communities. In this process, two main principles should be followed: respect for the historical truth and non-discrimination of minorities. To fully implement this strategy, national and regional factors will be of key relevance as far as the Russian-speaking communities are concerned. The full respect of their rights – in terms of citizenship, language, culture and the eradication of any form of discrimination – is closely linked to their involvement and participation in the process of a new multicultural nation that is fully respected by all countries in the region.

VI. RECOMMENDATIONS

85. **State authorities in the executive, legislative and judiciary powers should constantly reaffirm their political will and commitment to fight all forms of racism and discrimination. In particular, they need to be proactive and vigilant concerning the new challenges that arise from growing migration, multiculturalism and the dynamics of identity transformation. It is especially important to firmly condemn any racist or xenophobic action or discourse, including by political parties and the media.**

86. **Through its close interaction with its neighbours throughout the centuries, Estonia has developed a societal basis of tolerance and multiculturalism that still exists in the heart of its society. State authorities and civil society should build on these plural traditions to**

strengthen all actions against racism and discrimination and to promote a democratic multiculturalism that will be central to include new minorities into the Estonian society.

87. In what concerns the legal framework to fight racism and discrimination, despite the existence of separate provisions in different legislation, including the general principle of non-discrimination enshrined in the Constitution, the Special Rapporteur recommends that the Government adopt national holistic legislation covering all forms of discrimination in a comprehensive legal act. It is particularly important that this legislation be precise in terms of the punishment and prosecution of racially motivated crimes and incitement to racial hatred. This would complement the relevant legislative basis that already exists in Estonia and, most importantly, ensure that no protection gaps remain.

88. The Special Rapporteur recommends that the Government develop best practices and general guidelines for the prosecution of cases of incitement to racial hatred and racially motivated crimes, developing clear criteria for the threshold of evidence that is required to be presented and for the investigative conduct of law enforcement officials. Whilst developing these guidelines, the Government should bear in mind the need for the prohibition of incitement to racial, religious or ethnic hatred established by Articles 151 and 152 of the Estonian Penal Code, Article 20 of ICCPR and Article 4 of ICERD.

89. The Government should further strengthen the capacity of the Chancellor of Justice, including in terms of financial and human resources, to act on allegations of racist crimes and incitement to racial, ethnic or religious hatred. To complement the role of the Chancellor of Justice, the Special Rapporteur recommends that the Government put in place an independent institution entrusted with a mandate to fight discrimination. Rather than duplicating the role of the Chancellor of Justice, this institution would be responsible for linking the fight against discrimination with the active promotion of multiculturalism as the long-term solution to all forms of discrimination.

90. In what concerns the issue of statelessness, the Special Rapporteur recommends that Estonia accede to the 1954 Convention relating to the Status of Stateless Persons as well as the 1961 Convention on the Reduction of Statelessness. Such a decision would strengthen the protection of minorities in Estonia and highlight the Government's commitment to finding an equitable solution to the problem.

91. The Special Rapporteur recommends that the Government revisit the existing requirements for naturalization with a view to facilitate the granting of citizenship to persons of undefined nationality. In particular, the Government should facilitate the citizenship procedures for vulnerable groups, including elders and economically marginalized segments. This should involve the offer of free-of-charge language courses for all non-citizens that wish to apply for citizenship, as partially foreseen in the Programme for Integration of Society (2008-13). The Government should also consider appropriate measures to tackle the low level of registration as citizens of children born in Estonia after 20 August 1991 to non-citizen parents. These measures could include granting automatic citizenship at birth, without a requirement of registration by the parents, to those children born to non-citizen parents who do not acquire any other nationality.

92. As a matter of priority, the Special Rapporteur recommends that the language policy in Estonia be subject to an open, democratic and inclusive debate, in close consultation with ethnic minorities and human rights organizations, aiming at elaborating consensual strategies that better reflect the multilingual character of its society. This process should aim at promoting the living together of all the communities in Estonia on the basis of two principles: first, the legitimate right of the Estonian government to disseminate Estonian language among all residents and avoiding the process of asymmetric bilingualism that characterized the Soviet occupation; second, the respect for the existence of minority languages spoken by sizeable communities, in particular Russian, in full compliance with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, in particular, Article 2.1: “persons belonging to national [...] minorities have the right to [...] use their own language, in private and in public, freely and without interference or any form of discrimination”; Article 4.2: “States shall take measures to create favourable conditions to enable persons belonging to minorities to [...] develop their culture, language, religion, traditions and customs” and Article 4.3: “States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue”. Specific measures could be taken to allow linguistic minorities to reach the adequate language proficiency level demanded by the nature of their occupation, including the provision of free-of-charge Estonian language courses.

93. The Government should establish a broad process of consultation with a view at diminishing the gap in historical perceptions between the Estonian and Russian-speaking communities. In particular, a collective writing by local and international scholars of a common history of the region that is accepted and recognized by all communities would represent a significant step to foster understanding and tolerance and would facilitate the teaching of history at schools, which is viewed as one of the main obstacles to the living together of the different communities.

94. Particular attention should be granted to the vulnerable situation of the Roma community. The Government should reinforce its programmes, drawing attention to general recommendation 27 of the Committee on the Elimination of All Forms of Racial Discrimination on discrimination against Roma. In particular, specific measures should be taken to improve the educational attainment of Roma children and to reduce dropout rates. The Programme should also promote a sensitization effort among the Estonian society at large to Roma history, traditions and living cultures, including their fate during the Holocaust, in order to eliminate the negative stigma and stereotypes that Roma are recurrently associated with.

95. The Government should develop mandatory training schemes for all law-enforcement officials, including border guards, focusing on human rights education in general and racism and discrimination in particular, following the successful in-house programme developed by the Citizenship and Migration Board. A multicultural composition and training of these officials will improve their relations with minority communities and respect thereof. Additionally, adequate mechanisms should be put in place to identify and punish unprofessional performance of law-enforcement officials when

dealing with minorities, in particular in cases of harassment and racial, ethnic or religious profiling.

96. The Government should strengthen its cooperation with all societal actors, in particularly civil society organizations that have been playing an important monitoring role for human rights violations. Civil society should be encouraged to further its work in providing legal counsel to victims as well as access to international instruments, both at the international and regional levels.

97. In parallel with a political and legal strategy, the Government, in cooperation with the civil society, should adopt an ethical and cultural strategy that addresses the deepest roots of racism, xenophobia and intolerance and is built around the promotion of reciprocal knowledge of cultures and values, the interaction among the different communities and the link between the fight against racism, xenophobia and discrimination and the long-term construction of a democratic, egalitarian and interactive multicultural society.
