



**International covenant  
on civil and  
political rights**

Distr.  
GENERAL

CCPR/CO/77/EST  
15 April 2003

Original: ENGLISH

---

HUMAN RIGHTS COMMITTEE  
Seventy-seventh session

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

**Concluding observations of the Human Rights Committee**

**ESTONIA**

## **Estonia**

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

### **A. Introduction**

2. The Committee welcomes the second periodic report of the State party and expresses its appreciation for the frank and constructive dialogue with the delegation. It welcomes the detailed answers that were provided to its written questions.

3. While the report was submitted with some delay, the Committee notes that it provides important information on all aspects of the implementation of the Covenant in the State party, as well as on concerns specifically addressed by the Committee in its previous concluding observations.

### **B. Positive aspects**

4. The Committee expresses its satisfaction over several new legislative developments in areas related to the implementation of the provisions of the Covenant that have taken place in the State party since the submission of the initial report.

5. The Committee welcomes the measures taken by the State party to create the Office of the Legal Chancellor and the addition of ombudsman functions to its responsibilities.

6. The Committee welcomes the measures and legislation adopted by the State party to improve the status of women in Estonian society and to prevent gender discrimination. It particularly notes article 5 of the Wages Act, which now prohibits the establishment of different wage conditions on the basis of gender, and articles 120 to 122 and article 141 of the new Penal Code, which make domestic violence and marital rape specific criminal offences.

7. The Committee welcomes the delegation's affirmation that the problem of prison overcrowding is being resolved, through the decreasing number of persons detained owing, inter alia, to increasing resort to alternative forms of punishment and the opening of a new spacious prison in Tartu.

### **C. Principal subjects of concern and recommendations**

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

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

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

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

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

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

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

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

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

**The State party is invited to revise its outdated legislation to ensure that the use of firearms is restricted by the principles of necessity and proportionality as reflected in paragraphs 9 and 16 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (articles 7 and 10 of the Covenant).**

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

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

14. Regretting that the concerns of its previous concluding observations (CCPR/C/79/Add.59, para. 12) have not been met, the Committee remains deeply concerned at the high number of stateless persons in Estonia and the comparatively low number of naturalizations. While the State party has adopted a number of measures designed to facilitate naturalization, a large number of stateless persons do not even initiate this procedure. The Committee takes note of the different reasons underlying this phenomenon, but considers that this situation has adverse consequences in terms of the enjoyment of the Covenant rights and that the State party has a positive duty to ensure and protect those rights.

**The State party should seek to reduce the number of stateless persons, with priority for children, inter alia by encouraging their parents to apply for Estonian citizenship on their behalf and by promotion campaigns in schools. The State party is invited to reconsider its position as to the access to Estonian citizenship by persons who have taken the citizenship of another country during the period of transition and by stateless persons. The State party is also encouraged to conduct a study on the socio-economic consequences of statelessness in Estonia, including the issue of marginalization and exclusion (articles 24 and 26 of the Covenant).**

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

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

16. While welcoming the abolition of the requirement of proficiency in Estonian language for standing as a candidate in elections and the assertion by the delegation that the use or size of advertisements and signs in other languages is not restricted, the Committee is concerned at the

practical implementation of Estonian language proficiency requirements, including in the private sector, and the effect this may have on the availability of employment to the Russian-speaking minority. It is also concerned that, in those areas where a substantial minority speaks primarily Russian, public signs are not posted also in Russian.

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

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

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

18. The Committee regrets the lack of detailed information about the actual results of the activities of the Legal Chancellor and other bodies, like the Labour Inspectorate, in relation to their competence to receive and deal with individual complaints.

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

19. The State party should disseminate widely the text of its second periodic report, the replies provided to the Committee's list of issues, and the present concluding observations.

20. In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should provide within one year relevant information on the implementation of the Committee's recommendations in paragraphs 10, 14 and 16 above. The third periodic report should be submitted by 1 April 2007.

-----