

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 39<sup>TH</sup> SESSION (NEW YORK 23 JULY - 10 AUG 2007) ESTONIA (4<sup>TH</sup> PERIODIC REPORT)

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### Information Submitted to the Committee

On 24 July 2007, Estonia submitted its fourth periodic report under the *Convention on Elimination of Discrimination Against Women* (the Convention), as well as written responses to the list of questions and issues raised by the Committee on the Elimination of Discrimination Against Women (the Committee).<sup>1</sup> The Estonian delegation was led by Ms. Marina Kaljurand from the Ministry of Foreign Affairs in Estonia.

Estonia became a State party to the Convention without any declarations or reservations in 1991. The Optional Protocol has not yet been ratified.<sup>2</sup>

The shadow report submitted to the Committee by the Estonian Women's Associations Roundtable<sup>3</sup> acknowledged the progress made by the Estonian Government in setting up institutional mechanisms for advancing women's rights. However, the report also highlighted that information regarding these institutional mechanisms was not readily available to those who needed to know about them or use them. The report emphasised the lack of state enforcement of the Gender Equality Act, the voluntary nature of the conciliation process under the Chancellor of Justice, and the myriad of responsibilities assigned to the Gender Equality

<sup>1</sup> <http://www.un.org/womenwatch/daw/cedaw/39sess.htm>.

<sup>2</sup> <http://www.ohchr.org/english/law/index.htm>.

<sup>3</sup> [http://www.iwraw-ap.org/resources/pdf/Estonia%20SR%20\(EWAR\).pdf](http://www.iwraw-ap.org/resources/pdf/Estonia%20SR%20(EWAR).pdf).

Commissioner, and indicated that these institutional attempts to promote women's empowerment were fundamentally flawed. The report further stated that the continued persistence of gender stereotypes in Estonia was proving to be a significant stumbling block in the Government's attempt to promote gender equality.

Estonia is party to a number of international instruments such as the *Convention on the Elimination of Racial Discrimination*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights*, the *Convention Against Torture*, the *International Convention on the Protection of the Rights of All Migrant Workers*, and the *Convention on the Rights of the Child*.<sup>4</sup>

## Themes and Issues<sup>5</sup>

### **Institutional Mechanisms**

The delegation explained to the Committee that Estonia had adopted the Gender Equality Act primarily as a response to the Committee's previous observations that Estonia had inadequate anti-discrimination legislation. The delegation stressed that the Act sought to ensure gender equality, while prohibiting discrimination based on sex. The delegation also pointed out that the text of the Act is available in English, and is posted online. In addition, the Estonian Government has also established the Office of the Commissioner of Gender Equality (the Commissioner) to handle gender discrimination complaints.

The Committee expressed concern about the independence of the Office of the Commissioner, given that he or she was appointed by the Ministry of Social Affairs. Further, the Committee asked about the follow-up procedure to the Commissioner's recommendations if it were found that discrimination based on sex had in fact occurred. In response, the delegation clarified that although the Office of the Commissioner was appointed by the Ministry of Social Affairs, it has its own budget within the broader governmental budget allocation, and the Commissioner operates independent of the Ministry. The delegation further clarified that the term of the Commissioner ends only when the allotted five year period expires. However, the term may end prematurely under specific criteria, such as if the Commissioner dies, resigns, is convicted in a court, or is unable to dispense his or her responsibilities for more than six months.

The delegation further stated that the follow up on the Commissioner's advice was a voluntary process and it was the particular party's decision whether they wished to go to court to seek compensation. The delegation explained that the Commissioner had handled 92 individual complaints so far, of which, 43 related to discrimination and 25 to institutions and employers. In 19 cases, the Commissioner had found that discrimination had taken place and in five, the information was deemed incomplete. The delegation added that the Commissioner was also engaged in giving lectures, attending workshops and conferences.

The Committee enquired whether there was any gender analysis of statutes and governmental programs, and whether the Gender Equality Commissioner was a part of any governmental legislative committee. The delegation answered that the Commissioner has the power to ask local governments and authorities for information, and while he or she was not part of the Government, if a legislator requires advice on gender specific issues, the Commissioner is the best source of independent opinion on such matters.

Committee member Mr. Flinterman queried the implementation of anti-discrimination legislation given that there is no precise definition of discrimination against women in the Gender Equality Act. The delegation outlined that the judiciary is required to take into account the provisions of the Convention in any

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<sup>4</sup> <http://www.ohchr.org/english/law/index.htm>.

<sup>5</sup> For a more detailed description of the dialogue between the Committee and the State, please see the press release of the proceedings, available at <http://www.un.org/News/Press/docs/2007/wom1638.doc.htm>.

interpretation of discrimination. The delegation explained that under the law, direct discrimination occurred when one person was treated less favourably on the basis of sex, which was in keeping with the definition enshrined in the Convention. The delegation noted that in cases of alleged discrimination, the judiciary must take this definition into account.

Concerns were also raised by the Committee about the responsibilities of the Chancellor of Justice. In particular, the Committee expressed consternation that since 2004, in addition to handling cases of discrimination based on gender, the Chancellor had also been made responsible for cases of race, disability, ethnicity, and nationality discrimination. The expansion of the scope of the tasks assigned to the Chancellor, without any significant increase in the resources available to the office, would weaken or dilute the effectiveness of the office in dealing specifically with cases related to discrimination against women. Further, given that the conciliation process is voluntary, concerns were expressed by the Committee about the effectiveness of the Chancellor's office. The delegation explained that the reconciliation process was a friendly settlement procedure, in which the Chancellor acted as an ombudsman. Everyone had the right to petition him and he could make concrete proposals on human rights compliance. The Chancellor's decisions were sent to the Government authority supervising the person charged with violating the rights of another person.

The Committee further expressed disappointment that the Government of Estonia was yet to establish the Council on Gender Equality, and sought clarification from the delegation as to the reason for the delay. The delegation explained that financial constraints and the lack of gender experts had been a significant obstacle in the establishment of the Council. The delegation added that currently intensive discussions are underway about the composition of the Council, which is meant to be largely representative and will draw experts from the private sector, non-governmental sector and academics.

The Committee also questioned whether the Convention was cited or relied upon within the domestic Estonian legal system, since it is supposed to take precedence over local legislation. The Committee expressed concern that perhaps judges and lawyers are not aware of the Convention and Estonia's obligations in adhering to the Convention. The delegation explained that the lack of adequate knowledge among members of the judicial system was a problem not restricted to the Convention, but all instruments of international law since Estonian lawyers and judges are not yet comfortable using the language of international law. The delegation admitted that although much training had been imparted, much more can be done. The delegation pointed out that increasingly the language of European conventions are being mentioned in the domestic judicial system, and that perhaps this could lead to incorporation of broader international law instruments as well.

### **Gender Mainstreaming and National Strategy**

Several Committee members raised concerns about the lack of a coherent national strategy for improving the status of women in the country. A similar concern had been expressed by the shadow report submitted by the Estonian Women's Associations Roundtable, which lamented the project-based approach of the Government in enforcing the Convention's provisions.<sup>6</sup>

The delegation pointed out that although there was no single national policy, the government had instead sought to incorporate gender equality in every official policy. Thus, through such a gender mainstreaming approach, the Government hoped to achieve the same level of success.

The Committee found that the situation of external funding of the many projects and programs aimed at enhancing gender equality might be unsustainable, and their concern was raised that such projects might not

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<sup>6</sup> Reference made in the first NGO session on July 23, 2007.

continue once the funding from the European Union, the United Nations, and other organisations ended. The delegation assured the Committee that in such cases, based upon the effectiveness of the project, the Estonian Government would continue to provide funding. For example, several shelters for victims of trafficking currently being funded by Nordic countries would in the future be funded out of the Estonian budget, ensuring the project's sustainability.

### **Violence against women**

The Estonian delegation stated that, although there was no specific legislation on the issue of domestic violence, such acts of violence were punishable under the Penal Code. Under the Penal code, victims could also seek redress through courts, and obtain restraining orders against perpetrators. The Committee however expressed concern that restraining orders as outlined by the delegation could only be imposed with the consent of the victim, and asked about cases in which the victim did not give consent under the threat of duress. The Committee strongly urged the Government of Estonia to enact specific legislation dealing with domestic violence. Committee member Ms. Siminovic pointed out that in the past the Committee had recommended that Estonia enact a specific law against domestic violence, but that the country had instead decided to adopt a national action plan to address the problem. She questioned why the domestic violence national action plan was taking so long to come into force.

The delegation noted that a study on perpetrators of domestic violence would be presented at the end of this year, which was expected to provide insights into the reasons behind such violence and identify measures to rectify the problem. The delegation emphasised that the domestic violence national action plan had been delayed since it was a big task involving several ministries.

The Committee member further enquired about the services provided by shelters for victims of domestic violence, to which the delegation responded that free legal aid was offered to the victims through such shelters, and that under the national action plan on domestic violence, the State would extend support to all shelters by next year. The Committee suggested that there was a need for greater data and statistics on the question of the numbers of women seeking safe haven in the shelters, and about compensation being awarded to victims of domestic violence. The Committee also expressed their strong desire that the proposed national action plan on domestic violence be implemented in the very near future.

### **Trafficking of Women**

The delegation said that Estonia had witnessed significant progress in combating the problem of human trafficking, mainly because of economic growth. The Government had also been cooperating with other regional players in tackling the problem, and had initiated specific projects and programs. In conjunction with NGOs, help and services are provided to the victims of trafficking. The Estonian delegation explained that, while there was no specific legislation dealing with the trafficking of women, current Penal Code provisions do prohibit and provide punishment for such practices. The Committee congratulated the Estonian Government's efforts to deal with the issue of human trafficking.

### **Challenging stereotypes**

The delegation admitted that despite progress made in several fields, gaps remained in the participation of women in public and political life, and particularly in education. Much of the gender imbalance was cited as a direct result of stereotypes pertaining to gender roles and traditionally conceived ideas about 'male and female work', and the roles assigned to women in public and private life. Given the overall impact of such attitudes and behaviour on women's rights, the delegation outlined various awareness-raising projects and programs launched under the Ministry of Social Affairs to promote gender equality, such as a booklet, *Different, But Equal* published in cooperation with the United Nations Population Fund (UNPF), which had been translated into Russian.

The delegation noted that a revision of school textbooks had revealed the existence of gender stereotypes, which the Government had sought to remove under the new curriculum adopted by the Ministry of Education in March 2007. The delegation further contended that some change was beginning to be seen in the media with regard to the portrayal of women, and also at the family level. Although the Committee's earlier recommendation for developing comprehensive educational programmes had not been implemented in its entirety, steps are being taken to address the issue which is likely to be a long process.

### **Women in the Labour Market**

The Committee expressed concern that there was no precise definition of sexual harassment under Estonian law. Questions were also raised about unemployment rates among women in Estonia and the continuing high wage differential between men and women. The delegation responded that legally, defining sexual harassment is a difficult task, and that currently, the definition of sexual harassment pertains to discrimination against a person, not necessarily just women. The definition applies to men and women who suffer harassment because of a subordinate or dependent relationship. The delegation assured the Committee that the Estonian Government plans to broaden this definition.

The delegation stated that the unemployment rate among women had decreased, again, most likely as a result of greater economic growth. Unemployment rates are 5.6 per cent for women, as compared to 6.2 per cent for men. The delegation admitted that the wage differential among men and women remains high, at approximately 25 per cent. The wage differential is one of the highest among European Union member states, and this remains a cause for concern for the Government and non-governmental organisations. The delegation cited people's attitudes as a prime cause for the stark wage differential and outlined various projects that had been initiated by the Government (many in conjunction with European Union guidelines) to encourage women's participation in the labour market. Some projects were noted as particularly targeting the private sector, such as the "Women to the Top" programme.

### **Women in the Government**

The delegation stated that while the number of women in Parliament had increased slowly, there was much room for progress. Presently, there are 22 women in Parliament, and three female Ministers in Government, and more than half of the civil servants in Estonia are women. In terms of representation, the delegation admitted that women's effectiveness in the political arena continues to be constrained by traditionally held ideas and stereotypes. In response to a Committee member's question about the steps being taken by the Government to enhance women's participation in political life, the delegation answered that several projects and programs highlighting women's participation in public life had been launched, along with spots on radio and television, and a series of newspaper articles.

In this context, the Committee further questioned why the Estonian Government had not adopted temporary special measures,<sup>7</sup> such as quotas for women in the Parliament and local government councils to overcome deeply rooted attitudes and stereotypes regarding gender roles. The delegation pointed out that taking into account unfavourable public opinion surveys, the Government had decided not to enforce such provisions. However, the delegation emphasised that other special measures were in place under the Gender Equality Act itself, while the Government was also attempting to mainstream gender equality in all other policies.<sup>8</sup> The Committee strongly urged the delegation to reconsider the issue of quotas, since basing such a decision on public opinion was not always the best strategy.

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<sup>7</sup> Article 4, paragraph 1 of the Convention.

<sup>8</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/N05/543/97/PDF/N0554397.pdf?OpenElement>.

## Conclusions and Recommendations

While the Committee commended the progress made by Estonia in the arena of advancing women's rights, especially in the terms of curbing trafficking in women in coordination with other European states, it stressed that much work needs to be done in other fields. The Committee was particularly concerned about the persisting gender stereotypes and traditional views with regard to women's position in public life, in the domestic domain, and in the labour market, and suggested that much work needs to be done by the Estonian Government to combat such attitudes and behaviours.

At the same time, the Committee stressed the need for greater statistical data and information with regard to specific issues which would then enable the Estonian Government to formulate appropriate and targeted policies and programs to enhance gender equality. The Committee also emphasised that there was a need to streamline the Government's efforts with regard to women's empowerment and gender equality. The Committee recommended the formulation of a coherent strategic national plan for this purpose. This would also help reduce the risk of duplication of efforts and work by the different state institutions and agencies.

The Committee also recommended greater training and education initiatives aimed at judges, lawyers and other members of the judicial system to increase awareness of the Convention and its provisions.

The Committee further urged strengthening the different institutional mechanisms in place, especially the conciliation procedure under the Chancellor of Justice, and a review of the Gender Equality Commissioner's roles and responsibilities.

Further, the Committee urged the Estonian Government to ratify the Optional Protocol to the Convention.

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## **TREATY BODY MONITOR STAFF**

**Gareth Sweeney**, Human Rights Officer, Information Program, Geneva

**Eléonore Dziurzynski**, Communications Officer, Information Program, Geneva

**Michelle Evans**, Representative to the UN, New York

**Kobi-Renee Leins**, Human Rights Officer, New York

## **AUTHOR OF THE ESTONIAN REPORT**

**Sumani Dash**, Intern

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