



REFERENCE:GH/fup-137

29 March 2023

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 14, 24 and 28 of the concluding observations on the report submitted by Estonia ([CCPR/C/EST/CO/4](#)), adopted by the Committee at its 125th session in March 2019.

On 22 March 2021, the Committee received the reply of the State party. At its 137th session (27 February to 24 March 2023), the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Addendum 2 (see [CCPR/C/137/2/Add.2](#)) to the Report on follow-up to concluding observations (see [CCPR/C/137/2](#)). I hereby include a copy of the Addendum 2 (advance unedited version).

The Committee considered that not all the recommendations selected for the follow-up procedure have been fully implemented and decided to request additional information on their implementation. Given that the State party accepted the simplified reporting procedure (LOIPR), the requests for additional information will be included, as appropriate, in the list of issues prior to submission of the fifth periodic report of the State party.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

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

Imeru YIGEZU

Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

H.E. Mrs. Katrin SAARSALU-LAYACHI
Ambassador Extraordinary and Plenipotentiary
Permanent Representative
Permanent Mission of the Republic of Estonia to the United Nations Office
and other international organizations in Geneva
Email: mission.un@mfa.ee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Estonia

Concluding observations (125th session): [CCPR/C/EST/CO/4](#), 21 March 2019

Follow-up paragraphs: 14, 24 and 28

Information received from State party: [CCPR/C/EST/FCO/4](#), 22 March 2021

Committee's evaluation: 14 [B][C], 24 [C] and 28 [C][A]

Paragraph 14: Hate speech and hate crimes¹

Summary of the information received from the State party

(a)–(b) In February 2021, the Ministry of Justice initiated a review of the Criminal Code with regard to offences concerning equality; it plans to prepare draft amendments, which will be submitted in due course. Civil society and other stakeholders will be invited to participate in this process.

(c) While the Criminal Code does not explicitly provide for the motive of hatred as an aggravating circumstance, it does recognize “other base motive” as an aggravating circumstance, under which hate crimes can be classified. The court assessment as to the base motive depends on the circumstances surrounding the crime. Law enforcement agencies are obliged to apply the law in accordance with the State’s international obligations.

(d) No information is provided.

(e) Law enforcement officials have received training on how to apply the Criminal Code in accordance with the State’s international obligations. Representatives of Estonia regularly participate in international working groups on reporting and recording hate crimes. Since 2016, Estonia has prepared annual reviews of recorded hate crimes and guidelines on recording hate crimes have been prepared for the police. Victim surveys in recent years have shown that 1–2 per cent of respondents believe that individuals have been victims of crime on the basis of their nationality, race, colour, religion, disability or sexual orientation.

(f) No information is provided.

Committee’s evaluation

[B]: (a), (b) and (e)

The Committee takes note of the ongoing review and planned amendments to the Criminal Code with regard to offences of equality. It requests further information on the timeline and outcome of the review and on the content of the planned draft amendments to the specific articles of the Code. The Committee also takes note of the training provided to law enforcement officials and the development of guidelines on recording hate crimes. It requests further information, especially concerning hate crime, on the content of the

* Adopted by the Committee at its 137th session (27 February to 24 March 2023).

¹ The paragraphs containing the Committee’s recommendations are not reproduced in the present document owing to the word limit specified in General Assembly resolution [68/268](#), para. 15.

training, its frequency and mandatory nature. The Committee regrets the lack of information on training provided for prosecutors and judges, awareness-raising activities conducted among the public and the implementation of the plan to expand the number of web constables. It reiterates its recommendations in this respect.

[C]: (c), (d) and (f)

While taking note of the information on the recognition of “other base motive” as an aggravating circumstance, the Committee regrets the lack of specific steps taken to recognize hate motives as aggravating circumstances for all offences. It reiterates its recommendation.

The Committee regrets the lack of information on any legislative measures taken to prohibit the public denial, justification or condoning of crimes of genocide, crimes against humanity, war crimes or hate propaganda that is racist or otherwise incites discrimination. It reiterates its recommendation. The Committee also regrets the lack of specific information on the measures taken to ensure the effective investigation, conviction and punishment of hate crimes. It reiterates its recommendation and requests statistical information in this respect for the reporting period.

Paragraph 24: Non-consensual psychiatric treatment

Summary of the information received from the State party

Involuntary treatment in civil proceedings

According to the Mental Health Act, involuntary treatment is applied or continued only if all of the following circumstances apply: (a) the person has a severe mental health condition which restricts his or her ability to understand or control his or her behaviour; (b) without inpatient treatment, the person endangers his or her own life, health or safety or those of others owing to a mental health condition; and (c) other psychiatric care is not sufficient. The Act provides that involuntary psychiatric treatment must be applied only on the basis of a court ruling.

The relevant procedure for involuntary placement and treatment is regulated in the Code of Civil Procedure. The court appoints a representative for the person in proceedings concerning placement in a closed institution. The person and his or her close family members, guardian, trustee, members of the rehabilitation team and the head of the closed institution must be heard in person. An expert opinion, such as that of a psychiatrist, is required under the Code. The Code also provides that the period of placement cannot exceed one year, unless otherwise provided by law, and the court must give the reasons for determining the period. Such court decisions can be appealed and a decision of a court of appeal is appealable to the Supreme Court. It is possible to submit a claim for compensation for damages if a court decision requiring involuntary treatment is later repealed. The Code provides that the court may suspend the placement of the person in a closed institution.

Psychiatric coercive treatment in criminal proceedings

According to the Mental Health Act, psychiatric coercive treatment is aimed at treating mental health conditions, decreasing the risk resulting therefrom and restoring the person's coping skills. Coercive treatment is applied under the Criminal Code and in accordance with the Code of Criminal Procedure. Pursuant to the Criminal Code, the court must order coercive psychiatric treatment only if: (a) the person has committed an unlawful act; (b) at the time of commission of an unlawful act, the person lacks capacity or if he or she, after the passing of the court judgment but before the completion of the full sentence, becomes mentally ill or suffers from any severe mental health condition, or if it is established during preliminary investigation or the court hearing that the person suffers from such a condition and therefore his or her mental state at the time of commission of the unlawful act cannot be ascertained; (c) he or she poses a danger to himself or herself and to society owing to his or her unlawful act and mental state; and (d) he or she is in need of treatment. Outpatient

treatment is possible if the person does not pose a danger to himself or herself or to others upon subjection to coercive psychiatric treatment and if it is likely that the person will adhere to the treatment regime.

The Code of Criminal Procedure regulates the administration of coercive psychiatric treatment, providing that the person must participate in procedural acts and exercise the rights set forth in the Code if his or her mental state allows it. The participation of counsel is mandatory throughout criminal proceedings if, owing to the person's mental or physical disability, he or she is unable to defend himself or herself or if defence is complicated owing to the disability. The court must terminate the administration of treatment if the person recovers as a result of coercive psychiatric treatment or if, in the opinion of a psychiatrist or medical committee, there is no need for further treatment. The person has the right to appeal the order on administration or alteration of treatment to the court of appeal and thereafter to the Supreme Court.

There is 24-hour special care for adults placed in a care institution by court order for a period of up to one year. Adults are placed in such institutions to receive care without their consent if: (a) the adult has a severe mental health condition which restricts his or her ability to understand or control his or her behaviour; (b) the adult poses a danger to himself or herself or to others if he or she is not placed in a social welfare institution to receive 24-hour special care; and (c) the application of measures taken previously has not been sufficient or the use of other measures is not possible. If an adult is incapable of exercising his or her will, he or she is deemed to have not granted his or her consent for the receipt of such care. The care provider must ensure the availability of nursing care, a family physician and a psychiatrist. The staff of the care institutions are required to complete special training. Additional training courses are organized, for example, on dealing with difficult and aggressive behaviour and on counselling skills for working with people with alcohol dependence.

Committee's evaluation

[C]

The Committee takes note of the information provided on the legal framework governing non-consensual psychiatric treatment in criminal and civil proceedings. Nevertheless, it regrets the lack of specific information on measures taken after the adoption of the concluding observations to put in place comprehensive procedures for seeking consent for the administration of psychiatric treatment and to sufficiently inform relatives and any other legal representatives of patients about the procedure for requesting the termination of coercive treatment, pursuant to article 403 of the Code of Criminal Procedure. The Committee reiterates its recommendations.

Paragraph 28: Refugees and asylum-seekers

Summary of the information received from the State party

(a) The principle of non-refoulement is fully respected. The right of asylum-seekers to apply for the international protection and their access to fair and fast proceedings are guaranteed. Applications can be lodged at border-crossing points and service points of the Estonian Police and Border Guard Board. Cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) is fruitful and ongoing, including on the quality of procedures and decision-making.

(b) Estonia is fully implementing the European Union laws on asylum, including the obligation to provide free legal aid and representation during the appeals stage of the asylum procedure. Applicants are provided with free counselling during the administrative stage and free legal aid and representation for appeals and during court proceedings.

(c) Applicants for international protection are not punished for illegally crossing the border. Under article 6 of the Code of Criminal Procedure, criminal proceedings are initiated if there is evidence of elements of an offence. Under article 199 of the Code,

application for international protection does not automatically preclude criminal proceedings. Criminal proceedings are initiated not to punish, but to investigate relevant circumstances, including those in article 31 of the Convention relating to the Status of Refugees.

(d) On 24 October 2017, Parliament concluded the first reading of draft law 472 SE; there have been no further developments in that regard. According to the law on parliamentary rules of procedure and internal rules, upon the expiry of the mandate of a parliament, all bills and draft resolutions on which proceedings were not completed during its mandate are dropped. The proceedings concerning draft law 472 SE ended in 2017.

(e) The Estonian Police and Border Guard Board continuously and regularly trains its officials. With the support of the 2019–2021 Asylum, Migration and Integration Fund project and based on the European Asylum Support Office training standards and curriculum, eight Police and Border Guard Board training modules covering international standards have been developed and training thereon provided to at least 250 officials.

Committee's evaluation

[C]: (a), (b), (c) and (d)

While taking note of the information on the full respect of the principle of non-refoulement, the Committee regrets the lack of information on specific measures taken to effectively guarantee, in practice, the rights of asylum-seekers to lodge asylum applications and any steps taken to establish an independent monitoring system at border crossings. It reiterates its recommendations and requests further information on the cooperation with UNHCR.

While taking note of the information on the provision of free legal aid and representation, the Committee regrets the lack of specific information on measures taken to ensure that asylum-seekers are provided with legal counselling or assistance. It reiterates its recommendation and requests statistical information on the number of asylum-seekers who have received such assistance at the border during the reporting period.

While taking note of the information provided on criminal liability, the Committee regrets the lack of information on any steps taken to include adequate safeguards in the Criminal Code to ensure that asylum-seekers are released from any criminal liability for illegal entry or stay. It reiterates its recommendation and requests statistical information on the number of asylum-seekers who have been accused and convicted of irregular entry or stay.

The Committee notes the information on the termination in 2017 of proceedings on draft law 472 SE following the expiry of the mandate of the *Riigikogu*. It regrets, however, the lack of information on whether similar legislation concerning the revocation of refugee status has been adopted during the reporting period or is envisaged, and requests further information.

[A]: (e)

The Committee welcomes the information on the creation and provision by the Estonian Police and Border Guard Board of training modules for its officials. It requests further information on the content of the training modules, especially those covering international standards, and whether the training is mandatory for all officials who come in contact with migrants and asylum-seekers.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2028 (country review in 2029, in accordance with the predictable review cycle).
