Committee on the Rights of the Child
Human Rights Treaties Division
Office of the United Nations High Commissioner for Human Rights
Palais Wilson - 52, rue des Pâquis
CH-1201 Geneva

November 21, 2016

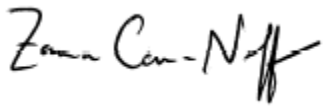
Re: Plenary Session on Estonia

Dear Members of the Committee on the Rights of the Child,

We write in advance of your upcoming plenary review of the Estonian government's compliance with the Convention on the Rights of the Child (the "Convention"). This submission focuses on the persistent problem of child statelessness and discrimination in access to quality education for the Russian-speaking minority as well as the protection of education during armed conflict. It relates to Articles 2, 7, 8, 28, 29, and 38 of the Convention, and proposes issues and questions that Committee members may wish to raise with the government.

Thank you for your attention to our concerns, and with best wishes for a productive plenary session.

Sincerely,



Zama Coursen-Neff
Executive Director
Children's Rights Division

Citizenship (Articles 2, 7, 8, 28, 29)

Child statelessness and children's effective enjoyment of the right to acquire a nationality and the right to an identity remain of concern.

After the collapse of the Soviet Union, as Estonia's government sought to restore Estonian statehood, it adopted citizenship policies that led to unprecedented levels of statelessness with nearly 40 percent of the population disenfranchised. The Citizenship Law of July 1, 1938 was reactivated and amended; it set out who had an automatic right to citizenship, namely those who had been citizens of Estonia prior to the Soviet invasion of Estonia on June 16, 1940. Under the citizenship policies adopted by the government, most non-Estonians who were born in Estonia or who moved there after June 16, 1940 as well as their direct descendants, were required to go through a rigorous naturalization process. This included an Estonian language test, a loyalty oath, and residency of two years. An additional year was required to process the paperwork. Under the 1938 amended Citizenship Law, naturalized citizens did not have the right to dual citizenship, whereas Estonian citizens by birth can hold dual citizenship.[1] In 1993, Human Rights Watch found that Estonia's citizenship regime was discriminatory, particularly against the country's Russian-speaking minority, and in violation of the International Convention on the Elimination of All Forms of Racial Discrimination.[2] Estonia is not a party to the principal international and regional treaties dealing specifically with statelessness, including the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, and the European Convention on Nationality.[3] In June 2015, Human Rights Watch documented several problematic trends that illustrate Estonia's ongoing violations of the rights to nationality, identity, and freedom from discrimination.[4]

As of January 1, 2016, the population of Estonia was estimated to be 1.3 million, with children ages 0-14 making up just over 15% of the total population. Of the total, 906,000 were Estonian and 330,000 were Russian.[5] According to the Estonian Ministry of Interior, as of June 1, 2015, 84,000 stateless persons live in Estonia.[6]

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[1] Human Rights Watch, *Integrating Estonia's Non-Citizen Minority*, October 1993, https://www.hrw.org/sites/default/files/reports/ESTONIA93O_0.PDF.
[2] Ibid.
[3] United Nations Convention Relating to the Status of Stateless Persons, 360 U.N.T.S. 117, entered into force June 6, 1960; Convention on the Reduction of Statelessness, 989 U.N.T.S. 175, entered into force December 13, 1975; European Convention on Nationality, ETS 166, entered into force March 1, 2000.
[4] Ibid.
[5] Statistics Estonia, "Statistical Yearbook Of Estonia," 2016, http://www.stat.ee/277640 (accessed November 8, 2016), p. 55, 58.
[6] Human Rights Watch Universal Periodic Review (UPR) Submission to the Office of the High Commission on Human Rights: Estonia, June 2015, https://www.hrw.org/news/2015/07/07/human-rights-watch-upr-submission-ohchr-estonia.

In recent years the Estonian government has taken significant steps to reduce child statelessness. On January 21, 2015 it amended the Citizenship Law to simplify naturalization requirements for several categories of people, including children. The new amendments entered into force on January 1, 2016. They allow children born to stateless parents to obtain Estonian citizenship at birth automatically, without a parent having to apply, as was required before. Parents can reject the citizenship on behalf of their children within a year.[7]

The amendments also allow children born in Estonia to hold citizenship of other countries until age 18; after that they will have three years to decide which country's citizenship they want to retain. Stateless children under 15 residing in Estonia on January 1, 2016, and whose parents have lived in the country for at least five years, will also receive Estonian citizenship after the amendments enter into force. Parents will have a year to reject Estonian citizenship on behalf of their child if they wish.[8] However, the amendments do not affect children between 16 and 18 or children born outside the country to stateless residents of Estonia.

Linguistic discrimination in Education

Language is a primary human rights concern for the Russian-speaking minority, particularly with regards to access to education. In Estonian publicly funded secondary schools, no more than 40 percent of all coursework can be taught in Russian. This requirement applies even in regions where Russian is spoken by a majority of the population and where high-quality non-Russian teachers are few.[9] When Human Rights Watch interviewed ethnic Russian students and parents in June 2015, all complained that ethnic Russian students did not receive an adequate education because their level of Estonian language mastery did not allow them to understand certain subjects, for example, World History, in Estonian.[10]

Such requirements have the effect of discriminating against children on the basis of language, with adverse impact on their right to an education.[11]

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[7] Citizenship Act, *Parliament*, RT I, 23.03.2015, 260, 1995, https://www.riigiteataja.ee/en/eli/503022016004/consolide, §13, 14.
[8] Ibid.
[9] Human Rights Watch Universal Periodic Review (UPR) Submission to the Office of the High Commission on Human Rights: Estonia, June 2015, https://www.hrw.org/news/2015/07/07/human-rights-watch-upr-submission-ohchr-estonia.
[10] Ibid.
[11] See Convention on the Rights of the Child, arts. 2, 28. In interpreting these provisions, the Committee on the Rights of the Child can usefully draw on the Convention against Discrimination in Education, adopted December 14, 1960, 429 U.N.T.S. 93 (entered into force May 22, 1962). The Convention against Discrimination in Education has 102 states party, although Estonia has neither ratified nor signed the treaty. Article 1 of the Convention against Discrimination in Education notes that that discrimination in education includes: "the exclusion, limitation or preference… based on language [among other factors] … which has the purpose or effect of nullifying or impairing equality of treatment in education."

Human Rights Watch recommends to the Committee that it ask the government of Estonia:

- What plans does the government have to address the situation of children who are between 16 and 18 years of age or who were born outside the country to stateless residents of Estonia and remain stateless?
- What measures are being put in place to ensure Russian-speaking children pupils are fully ready for education in the Estonian language?

Human Rights Watch recommends to the Committee that it call upon the government of Estonia to:

- Sign and ratify the 1954 Convention Relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness, the 1960 UNESCO Convention against Discrimination in Education, and the European Convention on Nationality.
- Further improve the Citizenship Law by including amendments which would extend automatic citizenship to all children, including those between 16 and 18 years old and children born outside the country to stateless residents of Estonia.
- Review the language policy in secondary schools and gymnasiums. Before requiring that non-Estonian students undertake instruction in the Estonian language, ensure that these students are fully ready for education in the Estonian language through the adoption of specific, well-resourced plans to transition such pupils and their schools to instruction in Estonian language.

Protecting Students, Teachers, Schools and Universities in Situations of Armed Conflict (Article 38)

Human Rights Watch encourages Estonia to endorse the Safe Schools Declaration, an international commitment to protect education in armed conflict.[12] The Declaration includes a pledge to respect the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, which safeguards students, teachers, and schools in war.[13] The Estonian troops serving in UN peacekeeping operations in southern Lebanon are already obliged to follow the UN's requirement to not use schools in their operations.[14]

[12] Safe Schools Declaration, May 28, 2015, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed October 19, 2016).
[13] Global Coalition to Protect Education from Attack (GCPEA), *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed October 19, 2016).
[14] United Nations Infantry Battalion Manual, 2012, section 2.13, "Schools shall not be used by the military in their operations."

Estonia's Strategic Military Defense Plan provides that military defense is carried out in accordance with international law, which, as written to Human Rights Watch by both the Minister of Defense and the Permanent Secretary of Defense, "clearly includes human rights law and humanitarian law."[15] Similarly, the Peacetime National Defense Act provides that "Achievement of national defense goals shall be based on the Constitution and Acts of the Republic of Estonia as well as on the generally recognized norms and principles of international law."[16]

Estonia's domestic legislation does not contain explicit protections against attacks on educational buildings. However, under the Penal Code, "an attack against an object not used for military purposes … is punishable by a pecuniary punishment or up to 5 years imprisonment." A violation is explicitly categorized as a "war crime" under the Penal Code.[17]

There are no specific prohibitions in Estonian legislation prohibiting the use or occupation of schools or other educational institutions by armed forces for short-term shelters or long-term bases. However, the Penal Code does provide that "person[s] belonging to the armed forces or participating in acts of war who destroys or illegally appropriates property on a large scale in a war zone or an occupied territory, whereas such act is not required by military necessity and lacks the necessary elements of an offence provided for in §95 [Acts of war against civilian population], 106 [Attacks against non-military objects] or 107 [Attacks against cultural property] of this Code, shall be punished by a pecuniary punishment or up to 5 years' imprisonment."[18]

Human Rights Watch recommends to the Committee that it ask the government of Estonia:

- What steps has Estonia taken in line with Security Council Resolution 2143 (2014) and 2225 (2015), which encourages member states to take concrete measures to deter the military use of schools?

Human Rights Watch recommends to the Committee that it call upon the government of Estonia to:

- Endorse the Safe Schools Declaration thereby endorsing and committing to use the Guidelines for Protecting Schools and Universities from Military Use in Armed Conflict.

[15] Letter to Human Rights Watch from Jaak Aaviksoo, Minister of Defense, and Riho Terras, Permanent Secretary, Ministry of Defense, September 14, 2010.

[16] Rahuaja riigikaitse seadus (Peacetime National Defense Act), 2002, June 12, 2002, entered into force August 15, 2002, RT I 2002, 57, 354, sec. 2(3).

[17] Karistusseadustik (Penal Code), June 6, 2001, entered into force September 1, 2002, RT1 I 2001, 61, 364 (consolidated text RT I 2002, 86, 504), sec. 106.

[18] Ibid, sec. 108.