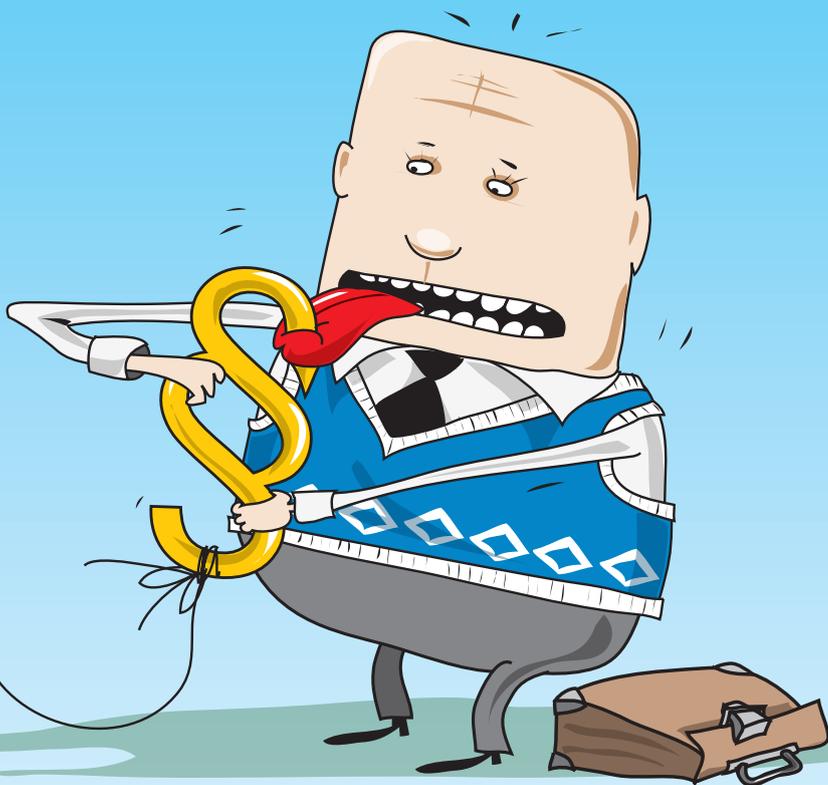




SOOLISE VÕRDÕIGUSLIKKUSE
JA VÕRDSE KOHTLEMISE VOLINIK

I KNOW MY RIGHTS

Tackling discrimination at the workplace



Tackling discrimination at the workplace

Dear reader!

Nationality – it is our wealth and strength. Every person has the inalienable right to be proud of being the person they are. Ukrainian, Kurd, Estonian, Russian, Tuareg, or Uzbek – according to the most recent national census representatives, there are 192 nationalities in Estonia. It is a great joy to be proud of your nationality and, in turn, it helps us understand people of other nationalities.

The Republic of Estonia has always acknowledged, honoured, and considered important the rights of national minorities, ensuring them cultural autonomy since its inception. Estonia was also a part of several larger states for a long time; this is why the people living here understand how vital it is to respect each person, regardless of their nationality. We are thankful to people, nations, and countries that have helped refugees, even under the fear of persecution by military or occupying authorities.

Unequal or unfair treatment on the grounds of nationality is expressly forbidden in Estonia. If a person suspects that they are being discriminated against on the grounds of nationality, they have the right to turn to the representatives of the state for help. However, not every disagreement, imaginary injustice, or failure can be related to discrimination.

I would like every person in Estonia to feel protected and free, helped and supported by the state, to feel that their fundamental rights are being respected. Together we are much wealthier and stronger!

I urge everyone who, for any reason, feels that they are being treated unequally on the grounds of nationality, to turn to the Gender Equality and Equal Treatment Commissioner for advice and help.

Liisa-Ly Pakosta
Gender Equality and Equal Treatment Commissioner

A handwritten signature in black ink that reads "Liisa Pakosta". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

I KNOW MY RIGHTS:

Briefly on how and why to
differentiate between imagined
discrimination and direct discrimination

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Feedback and suggestions about the booklet can be sent to the Chancellery of the Commissioner for Gender Equality and Equal Treatment via email at info@svv.ee.

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Introduction

The main and single aim of this publication is to answer the questions of how and why it is necessary to differentiate discrimination on the grounds of ethnicity, language, and nationality in Estonia.

At first glance, everything seems obvious but over the last 25 years, there have been various unpleasant experiences where it was difficult to understand what we were dealing with in our country. Perhaps you have heard about this.

As a matter of law, the answer is simple – the equality of rights is protected and approved by the Constitution of the Republic of Estonia and the Equal Treatment Act (subsection 2 (1)). This means that in our country, a thorough and solid legal basis has been created, which prohibits discrimination on the grounds of ethnicity, language, nationality or race. From the point of view of humans, it is necessary to be able to differentiate between imagined discrimination and direct discrimination to clearly identify reasons, to be ready and able, while understanding the essence, to properly protect your rights in accordance with the legislation.

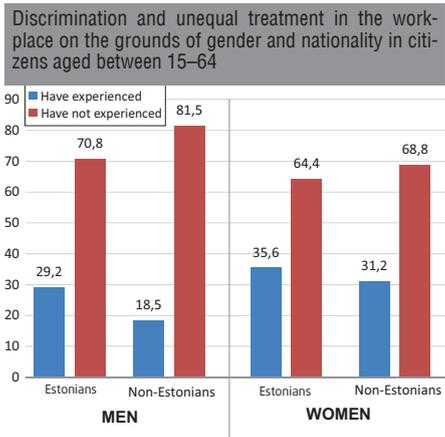
In practice, however, people quite often confuse the terms and cannot differentiate direct discrimination from imagined discrimination, and do not even know their rights. This creates misconceptions and misunderstandings of the needs of the labour market or education and, as a rule, receives a negative response. As a result, people get discouraged because of imagined discrimination or – even worse – offended by the state and their place of employment; the employer is deprived of valuable employees, the state is deprived of full-time-working citizens whilst there are no actual reasons for such disappointment.

This brochure discusses several instructive real life stories describing different cases of imagined discrimination that have taken place in Estonia. Names, places, and other personal information in these stories have been changed but the events and main details remain true in order to provide full information and a complete picture. Additionally, one real and two invented stories have been described for comparison at the very end. These stories illustrate how direct discrimination on the grounds of ethnicity, language, or nationality can and would look like.

Remember that there are currently no specific official cases of direct discrimination on the grounds of ethnicity, language, or nationality in the human rights practice of Estonia but there are many rumours about imagined discrimination.

For your information

Knowing your rights and having a clear understanding of discrimination makes it possible to differentiate between actual violation of legal rights and ignorance. The survey (conducted in Ida-Viru County) shows that many people face unpleasant situations and perhaps even legal violations that are not direct discrimination but may seem like it due to different reasons.



Where can one seek help in case of discrimination?

Our lives are very diverse and rich in conceivable and inconceivable nuances that are difficult to describe. If, at any point, you suspect that you are being directly discriminated against on the grounds of ethnicity, language, or nationality, you should turn to the people who can help you.

The Gender Equality and Equal Treatment Commissioner

The Office of the Gender Equality and Equal Treatment Commissioner has been created to help people protect their rights and to prevent any form of discrimination.

The Commissioner performs the following functions, among others:

- Ensures compliance with the requirements of the Gender Equality Act;
- Consults and assists in compiling applications and claims on discrimination issues;
- Evaluates cases of possible discrimination on the basis of provided applications or at their own initiative, on the basis of received information;
- Takes measures to promote gender equality and equal treatment.

In the case of suspected discrimination on the grounds of nationality, language, or ethnicity, please send a written application to the Commissioner at avalduš@svv.ee, via the webpage www.vordoigus-volinik.ee, or by post. Additional information is provided by phone at 626 90 59.

Chancellor of Justice

The Chancellor of Justice is an independent executive officer who, among other issues, controls the operation of individuals or entities and initiates conciliation procedures on the basis of applications for dispute resolution, including issues related to ageism.

The Chancellor of Justice can leave the application without consideration if the application is submitted four months after you became aware of or were supposed to become aware of the violation of your rights.

Labour Dispute Committee

The Labour Dispute Committee – primary, prejudicial body that examines individual labour disputes, available in each county together with the Labour Inspectorate. The Committee comprises the chair of the Labour Dispute Committee and representatives of the employees and employers. The Committee resolves disputes on the basis of submitted applications. It is possible to turn to the Labour Dispute Committee if, for example, the employer has terminated the employment agreement due to the nationality of the employee, defying the requirements of the legislation on the protection of rights.

Court

A person has the right to turn to a county court in order to end discrimination and for compensation.

The first story

48-year-old Ljudmilla was born in Narva, where she has also lived her whole life, working for different technology companies. Today she is a warehouse manager in a company that provides logistical services in Estonia, as well as in the neighbouring Russia.

Knowledge of both languages – Estonian and Russian – is definitely necessary for running a successful business. The owner of the company consistently reminded this to the employees, helping them apply for language courses. Nonetheless, Ljudmilla knows Estonian only at the basic level, as she has never used the language in Narva. She was able to succeed at her previous place of employment, as well as at the current one, knowing only Russian.

Expanding the business to other counties, it was decided that a development, marketing, and sales manager should be hired. The manager's duty would be to communicate with different Estonian and Russian clients. 28-year-old Aivar was recruited for this position. He had grown up in a Russian-speaking environment and now spoke both languages fluently. The owner set his salary, which exceeded Ljudmilla's by 450 euros. When Ljudmilla heard of this from her colleagues, she was very upset, as considered it direct discrimination on the grounds of gender and language. She believed that a warehouse manager with her work experience should be paid more than a development, marketing, and sales manager. Despite the opinions and explanations of the owner of the company, Ljudmilla was certain that her rights were being infringed upon and decided to talk about it on a local television show.

Why is this not direct, but imagined discrimination?

It is necessary to understand about this story that the payment for labour at different workplaces and positions can differ, depending on the skill requirements, professional skills, and the level of responsibility of the employee. Thus, Aivar's gender and nationality had no relation to his salary; rather his salary was determined by his performed duties and the competition of the labour market regarding the level of a specialist's salary.

The second story

From a very young age, Vadim has liked movies about detectives and finding criminals – he had seen a lot of movies about Sherlock Holmes. Vadim always dreamed of becoming a police officer and wearing a beautiful uniform. He even tried it on several times at the open days of the Estonian Academy of Security Sciences. Every time he saw a police car passing by in his hometown, Sillamäe, he imagined himself as a police officer.

When he was in the 11th grade, Vadim firmly decided in favour of his future profession. He began playing sports and learning Estonian; in addition to lessons in school, he hired a tutor, as he understood that it would be necessary not only to be accepted to the Estonian Academy of Security Sciences but also in police work. This training involved many difficulties and he had to make an effort, as his parents did not support him and did not completely understand why their son was wasting time learning a language, the use of which was very limited in Sillamäe.

Vadim's father, who came to live and work in Sillamäe in 1971 by distribution from the Sverdlovsk region in Russia, and who is a Russian citizen, always advised his son to go study in Saint Petersburg or Moscow after graduating from high school, as their relatives lived there. Vadim's mother, holding a passport with undetermined citizenship known as the "grey passport", tended to think that her son would migrate to the West. However, Vadim was confident in his wish to become a police officer in Estonia and contribute to the safety of his region and country as a whole. Having successfully passed state examinations, Vadim submitted his documents to the Estonian Academy of Security Sciences, which, after a short review, immediately rejected his documents. The reason was simple – Vadim did not have Estonian citizenship, which, according to the legislation, is required to become a police officer in this country.

Vadim, just like his mother, had undetermined citizenship. However, this rejection was a shock to him, as he thought it was enough to pass the physical exams and speak Estonian. Vadim did not want to have Estonian citizenship, as he was used to the convenience of being able to visit all European countries, as well as Russia (where his relatives lived) without a visa. His father, convinced that Russians were not welcomed at the Estonian Police, considered the rejection discrimination and, once again, advised his son to go to study in Russia.

Why is this not direct, but imagined discrimination?

The requirement of having the citizenship of civil officers (incl. police officers) is established by legislation and does not depend on nationality, native language, or ethnicity of the person. There are many examples of civil officers in Estonia who, although not ethnically Estonian, successfully work in public and state sectors, including the police.

The third story

Mansur, who is educated as a sociologist and lived in Pakistan for 32 years, decided to move to a European country, which, incidentally, turned out to be Estonia. Despite many confrontations and difficulties, he decided to stay, even though he was always complaining about the cold weather and the emotionally reserved nature of the locals. He was definitely affected by certain harsh statements by representatives of right-wing nationalism, whom he saw both in the media and on the streets of Tallinn.

After two years of adapting to Estonia, Mansur had learned Estonian and successfully passed the B1 category examination, as well as received a residence and work permit. Upon deciding that the main difficulties were over, he began thinking about bringing his family, who still lived in Pakistan, to Estonia. Mansur started working in a company that manufactured furniture but did not stop being regretful of the fact that he still could not work in his field of specialty. Knowledge of the Estonian language helped him begin understanding public and political processes; however, in communicating with his colleagues, he frequently lost the thread of conversation and could not participate in discussions on complex subjects.

After Mansur's wife and two kids moved to Tallinn, it became necessary to rent a larger apartment, which definitely required an additional income; Mansur began looking for an opportunity to do



so. He found a job advertisement on the Internet – about helping conduct sociological research. As he was very interested in applying his professional skills, Mansur decided to submit his documents and waited for a positive reply. However, he did not pay attention to the fact that not only knowledge of Estonian but also Russian was required. Having received an invitation for an interview, Mansur was very happy and informed his family. Arriving at the interview three days later, he was certain he would soon reach his goal and get a job in the field of sociology. During the course of the interview, he discovered that the nature of the position was to survey the Estonian population; in order to do so the so-called in-depth interview method would be used. Mansur thought that his skills of Estonian language were sufficient for this type of work; however, on the following day he received a response from the company, in which they informed him that another candidate had been chosen for the position.

Upset, Mansur informed his family of this unpleasant news, adding that he was quite sure that he was not chosen for the position due to the prejudice of local people who were generally intolerant of different skin colours or religions.

Why is this not direct, but imagined discrimination?

In this case, it is not possible to talk about discrimination on the grounds of race or religion, as the main criteria for selecting the new candidate were the professional skills of candidates, including sufficient knowledge of the working language that is necessary to survey the population and the skill to ask profound questions in Estonian, as well as in Russian.

The fourth story

Olga is a 36-year-old single mother to her daughter. She works as a nurse in a hospital in Kohtla-Järve where she is responsible for the fulfilment of medical prescriptions to patients in the hospital rooms that have been assigned to her, monitoring the state of her patients, taking care of them, and for organising catering. In general, Olga is satisfied with her work, although she is often tired due to her excessive workload. She is always responsible in performing her duties, interested in the duties of her colleagues, and does not mind helping them.

Helga, a good friend of Olga, works as a nurse in the same hospital but in addition to the common tasks, she is also in charge of the sanitary state of the departments and responsible for the management of medical records in her department, as she speaks Estonian quite well. Helga is 34 years old but she and her husband, Kalle, do not have any kids yet. Helga believes that her workload is too excessive, although she is reimbursed for the extra hours (incl. for the management of records in Estonian).

One day, the head of the department where Olga and Helga work, received an invitation from a company to send one of their employees to a sanitation course in Italy. The working language of the training course was English and the head of the department offered Helga the opportunity to participate in this course. Helga agreed, although reluctantly, as she was tired due to her recent excessive workload and she had planned to spend the weekend, on which the training course was to take place, with her husband. When she shared the information with Olga, Helga realised that Olga was rather envious because, as it later turned out, Olga had for a long time already dreamed of participating in a training course. Olga did not hide her indignation from Helga because she was certain that due to managing the records in the department, Helga was in full view of the management, and that is the only reason why she was chosen to participate in this training course. In addition, Olga suspected that Helga's nationality was the main reason for why she was chosen to participate in the training course.

On the following day, as Olga considered the situation a case of direct discrimination and a violation of her rights, she submitted an official application to the management of the hospital, in which she expressed extreme dissatisfaction with the decision of the head of the department to send Helga to the training course.

Why is this not direct, but imagined discrimination?

In this case, there is no reason to believe that Olga was discriminated against on the grounds of nationality, as the main theme of the training course was directly related to Helga's duties (sanitation). Other factors were not crucial in choosing the candidates.

The fifth story

Mykola, a Ukrainian, and Taavi, an Estonian, who have been friends for a long time, come from a small city named Kiviõli, in which communication between different nationalities has always been common and nobody has ever seen a problem with it. People have always found a common ground and in the case of Mykola and Taavi, it was Estonian, as Taavi had not learnt Russian in his childhood and later chose English as his second language.

Having graduated from the Tallinn University of Technology in chemical engineering, the friends returned to their hometown and almost at the same time, began working at a company where they were responsible for the introduction of new technological processes. The team communicated mainly in Russian, even the management of the company communicated in Russian quite often. Having worked at the chemical factory for five years and after receiving praise and several awards from the management for diligence and quality of work, Mykola and Taavi were constantly improving their professional skills and knowledge.

Last year, Mykola and Taavi participated as members of a large delegation in an international chemical industry exhibition, during which Taavi managed to establish a potentially profitable contact with a company from Kazakhstan. When Taavi returned from the exhibition, he submitted to the management a collaboration development plan with a new partner in Kazakhstan, which they decided to launch after some additional financial analyses. They decided to act promptly, as the business environment at that moment was favourable. Additionally, they were planning to establish a small executive branch in Kazakhstan, for which the position of manager was created – Mykola was suggested for this position.

Taavi considered this decision unfair, as he believed there was absolutely no reason for this, in his opinion, unjustifiable upgrade of Mykola's position. The assurance of the management, supporting Mykola's candidacy only with pragmatic factors, was in vain, as Taavi never ceased believing that he was being discriminated against on the grounds of nationality, as he had not even been provided the opportunity to take intensive Russian language courses.

Why is this not direct, but imagined discrimination?

The management's decision to send Mykola, as the manager of the branch, to Kazakhstan was based purely on reasonable factors, such as the urgent realisation of the project, knowledge of the Russian language, and the better understanding of local cultural sensitivities. In this case, the choice not in favour of Taavi was not based on his nationality but on his lack of professional skills (insufficient language skills).

The sixth story

(An invented story for comparison)

Victoria, born in Moldova in 1965, moved to Estonia in 1988, after graduating from school in the former Leningrad. Humble by nature, Victoria always dreamed of a quiet life in a calm and cosy place,

far away from large cities. She settled in a small town called Tapa and worked in a railway company where she met her future husband, Kristjan. She gave birth to a boy, Viktor. From his very childhood, he was used to different languages, as Victoria sometimes spoke Romanian with him while his father Kristjan spoke Estonian. Nonetheless, the main language of communication, in their family as well as outside, was Russian. The parents decided to send Viktor to a Russian kindergarten where, at the time, Estonian was not really taught.

Following the restoration of independence of Estonia, many non-Estonians living in the country realised that a sufficient knowledge of the national language is not only a tribute to the country and its culture, but also necessary for the integral development of potential in the society. Victor's parents also understood this and decided to send their son to the only Estonian school in Tapa.

They were astonished when the administration of the school refused to accept the application for Victor's admission, justifying their decision with the fact that the boy was not suitable to study in the Estonian group, as he had never been taught Estonian and was not, in fact, Estonian, which is whom the school had initially been created for. Victor's parents were advised to send their son to a Russian school where, with the assurance of the administration of the Estonian school, the boy would feel more confident. However, Kristjan did not accept this argument and was against making this decision but after some persuasion by the humble Victoria to keep the peace agreed to send their child to a Russian school.

At that age, Victor did not understand the problem and studied in the Russian school until the 12th grade, after which he entered the Tallinn University of Technology. Looking back to school years, he admits that Estonian was not taught sufficiently enough in the Russian school; in addition, as he was from a mixed family, he never liked being divided by the language of tuition into Estonians and non-Estonians.

Now he understands that at the time he was being discriminated against on the grounds of nationality by not being allowed to study in an Estonian school. Such situations should not occur. Knowing your rights makes it much easier to defend yourself in any situation, on the labour market, as well as in education.

The seventh story

(An invented story for comparison)

The Estonian capital, Tallinn, has always been a multinational city where people of different cultures and nationalities lived in a peaceful coexistence. Since her childhood, Gulnara, a girl who was born in a Tatar family in 1984, was sure about this fact. Gulnara spent her youth in the green yards of the city district called Kopli, playing with her Estonian, Russian and Ukrainian friends. After graduating from a Russian secondary school, Gulnara, good at languages, continued her studies in the International Relations programme at the Tallinn University without any problems.

While studying for her Master's degree, Gulnara understood that she could not wait any longer and wished to begin implementing her knowledge received at the university in practice; she decided to begin looking for a job, preferably for a part-time position with flexible hours, but which would be related to international communication. After two months of looking at advertisements, she finally found one that interested her – communication with foreign guests visiting Tallinn from different countries to conduct their business conferences. Gulnara believed that intensive communication would help her improve her foreign language skills, conference topics would expand her horizon,



and facilitate establishing useful contacts. She was also very interested in the additional financial income.

Having arrived for the interview at the set time, Gulnara was ready to illustrate all of her professional skills in order to convince the company to choose her for the position. She believed that the job interview went very well – people were friendly and polite towards her, and, as it seemed to Gulnara, interested in her skillset. Although she was the last one in the queue, her interview lasted longer than it was initially planned, which definitely made Gulnara feel good about her chances and even encouraged her to an extent.

After the interview was over, she stayed at the company a little longer and through the open door of the office, heard the voices of the people who had been interviewing her for the past 40 minutes. Her human curiosity got the best of her and Gulnara eavesdropped their conversation until one of the employees frankly declared that he would not agree, under any conditions, to choose Gulnara for the position because allegedly, she did not have a European appearance and he believed this to be very important for creating a positive first impression on the guests of Estonia as a Nordic country. Other employees tried to argue with him and possibly would have done it; however, Gulnara

burst into the office and declared fiercely that, under no conditions, would she agree to work in a company with such racist beliefs.

Upset, Gulnara understood that in this case, she was subjected to direct discrimination on the grounds of ethnicity but she had absolutely no idea how to protect her rights. Several days later, having calmed down, she decided to forget about this unpleasant experience, as she understood that she had to be strong and her life had to go on.

It should be noted that Gulnara had the right to turn to the Gender Equality and Equal Treatment Commissioner within one year, having submitted an application reporting discrimination in recruitment. As peoples' fundamental rights are heavily protected in Estonia, legal advice would have been free of charge for Gulnara. After the application, the commissioner could have initiated an investigation after receiving Gulnara's consent. In Estonia, the employer has no right to remove anyone from work or exclude them from the contest due to nationality.

In this case, there is no solid evidence, as Gulnara's words can be challenged by the representative of the company where Gulnara applied for a job. However, even if the employer had denied discrimination, the commissioner had the right to compare within the context of the competition, Gulnara's competence and professional skills with those of the person who was recruited for the position. If it turned out that Gulnara was better suited for the position based on the requirements than the chosen candidate with a "Nordic appearance", they would have officially registered the case as discrimination. Gulnara would have the right to demand for the compensation for moral damage from the company.

The eighth story

(A real story known to many of you)

The political spring in Tallinn had a heated start – in the media, representatives of the leading parties in the Estonian Parliament began discussing the possible candidates to the position of the President of the Republic whose elections were scheduled for the autumn. As it is known, according to the Estonian Constitution, the President is elected by members of the Parliament by secret ballot, in which each deputy has one vote. The elected President is the candidate, for whom two-thirds of the whole convocation of the Parliament vote; meaning that each voice has lot of weight and value.

One of the mainly discussed and possible candidates for the position of the head of the state was the 53-year old Marina, an Estonian citizen by birth, who always proudly stated that she was Russian by birth. Marina made a great career in public service and succeeded in many other aspects of social and political life in Estonia. Thus, she became a good example for most Russian-speaking residents of Estonia – that in the political, civil, and social life of the state there is no "glass ceiling", but rather it is invented by media to frighten Russian-speaking youth. According to the results of recent polls, Marina's candidacy for the post of the President was supported by approximately 30% of the respondents in Estonia, both ethnic, as well as Russian-speaking ones.

On a grey and rainy April day, an open meeting was organised in a small town where, among other issues, one deputy of the Estonian Parliament publicly expressed his opinion that a Russian cannot become the President of Estonia. A scandal, exposed after this statement, was covered in the media both in Estonia, as well as in the neighbouring countries. Many leading politicians and

public figures strongly condemned the statement of the deputy, noting that Marina's nationality or nationality of any other candidate cannot, in any way, become an obstacle for participating in the presidential election. Public discussion also tended to support the arguments that it is important for the candidate to have the necessary professional skills and knowledge – native language or ethnicity are not important.

This case is an example of direct discrimination on the grounds of nationality, as deputy of the Parliament is, in fact, the person who appoints the President to the position with his vote. Thus, being responsibly amenable to legislation, the deputy (and any other employer) has no right, under no conditions, to state that they believe that a person is not suitable for the position due to their nationality.

It is worth remembering that any form of discrimination on the grounds of ethnicity, language, nationality, or religion is forbidden in Estonia by legislation.

- Contact the Gender Equality and Equal Treatment Commissioner if you suspect that you have been discriminated against or treated unequally on the basis of gender, ethnicity, race or colour, religion, belief, age, disability, or sexual orientation.
- The Chancellery of the Commissioner can help if you need assistance in lodging complaints.
- You can contact the Commissioner with your questions by writing an email to avaldus@svv.ee or completing the application form on the website at www.vordoigusvolinik.ee.
- You can also call the Chancellery of the Commissioner for free legal advice at 6 269 059.