

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**



29 November 2010

**REPORT ON THE MEETING
WITH THE ESTONIAN GOVERNMENT
WITHIN THE FRAMEWORK OF THE PROCEDURE
ON NON-ACCEPTED PROVISIONS
(ARTICLE 22 OF THE 1961 CHARTER)**

(Tallinn, 20 September 2010)

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Situation of Estonia with respect to the Revised Charter, 1 October 2010

Ratifications

Estonia ratified the Revised European Social Charter on 11/09/2000 and has accepted 79 of the Revised Charter's 98 paragraphs.

Estonia has not yet ratified the Additional Protocol providing for a system of collective complaints.

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1	
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2	
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1	
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3	
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22	
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1	
31.2	31.3								Grey = Accepted provisions			

The Charter in domestic law

Estonia is a monist country.

Reports

Between 2003 and 2010 Estonia submitted 7 reports on the application of the Revised Charter.

The [6th report](#), submitted on 29/12/2008, concerns the provisions accepted by Estonia relating to Thematic Group 2 "Health, social security and social protection" (Articles 3, 11, 12, 13 and 14 of the Revised Charter). Conclusions with respect to these provisions were published in January 2010.

The [7th report](#), submitted on 23/12/2009, concerns the provisions accepted by Estonia relating to Thematic Group 3 "Labour rights" i.e.

- Right to just conditions of work (Article 2§§1, 2, 3, 5, 6 and 7)
- Right to a fair remuneration (Article 4§§2, 3, 4 and 5)
- Right to organise (Article 5)
- Right to bargain collectively (Article 6)
- Right of workers to be informed and consulted (Article 21)
- Right of workers to take part in the determination and improvement of working conditions and working environment (Article 22)
- Right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28)
- Right to information and consultation in procedures of collective redundancy (Article 29).

^{*} [Following a decision taken by the Committee of Ministers in 2006](#), the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Non-accepted provisions

Article 2§4 – The right to elimination of risks in dangerous or unhealthy occupations

Article 3§4 – The right to occupational health services

Article 4§1 – The right to a fair remuneration

Article 7§5 – The right to fair pay

Article 7§6 – The right to inclusion of time spent on vocational training in the normal working time

Article 10§2 – The right to vocational training (apprenticeship)

Article 10§5 – The right to vocational training (full use of facilities available)

Article 18 (all) – The right to engage in a gainful occupation in the territory of other Parties

Article 23 – The right of elderly persons to social protection

Article 26 (all) – The right of workers to protection of dignity at work

Article 30 – The right to protection against poverty and social exclusion

Article 31 (all) – The right to housing

Executive summary of the meeting

The meeting with the Estonian authorities on 20 September 2010 in Tallinn took place within the framework of the procedure adopted by the Ministers' Deputies in December 2002 concerning the provisions not accepted by the States Parties (Article 22 of the 1961 Charter). The Deputies decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

In accordance with this decision, five years after ratification of the Revised Charter (and every five years thereafter), the European Committee of Social Rights reviews non-accepted provisions with the authorities of the state concerned with a view to securing a higher level of acceptance. Experience has shown that governments tend to overlook that selective acceptance of Charter provisions is intended to be transitory. The aim of the new procedure is therefore to require them to review the national situation at regular intervals and encourage them to accept more provisions.

The detailed programme of the meeting, including the different speakers, can be found in Appendix II.

Estonia ratified the Revised Charter in 2000 and this meeting was thus second on the non-accepted provisions following on to the first meeting 2005. It was co-organised by the Department of the European Social Charter and the Estonian Ministry of Social Affairs.

The meeting was organised with three separate stages as follows:

1) Discussions with the management of the Ministry of Social Affairs for a technical review of the provisions concerned. The Estonian participants included

Ms Marelle ERLLENHEIM, Secretary General;
Ms Kristel ABEL, Adviser to the Minister;
Ms Diana LORENTS, Head of Public Relations;
Ms Seili SUDER, Head of Employment Relations;
Ms Eha LANNES, Adviser to the Social Welfare Department;
Ms Merle MALVET, Head of Social Security (and Vice-President of the Governmental Committee);

2) a meeting with the Social Affairs Committee of the Estonian Parliament chaired by the President of the Committee, Mr Urmas REINSALU;

3) an open seminar held at the Ministry of Foreign Affairs and chaired by Deputy Secretary General on Social Policy, Mr Riho RAHUOJA, with participation from different ministries, trade unions and NGOs (about 30 participants in total).

The delegation of the European Committee of Social Rights consisted of its President, Ms Polonca KONCAR and Mr Lauri LEPPIK, assisted by Mr Henrik KRISTENSEN, Deputy Executive Secretary of the Committee.

The discussions largely confirmed the assessment made by the European Committee of Social Rights delegation after the first meeting in 2005 as to which provisions could be accepted and for certain provisions (for example Article 10§2 and Article 18) it was clear that developments since 2005 have even strengthened the case for acceptance.

The provisional assessments,¹ provision-by-provision, made by the European Committee of Social Rights delegation during the meeting were based on the written report submitted by Estonia, including comments from the Estonian Trade Union Confederation as well as information provided in the course of the discussions, may be summarised as follows:

Article 2§4

The focus of this provision in the Revised Charter is on prevention and elimination of risk and this would also seem to be reflected in Estonian legislation and practice. In accordance with EU rules exposure to risk factors may not exceed prescribed limits and various organisational measures such as additional breaks, setting of rest areas and alternating of duties are used to reduce risk and exposure. Provision for additional paid leave may be made in collective agreements.

Conclusion: this provision can be accepted by Estonia.

Article 3§4

Under the Occupational Health and Safety Act all employers are obliged to provide occupational health services and to bear the costs incurred. Services are provided by private sector health specialists and include not only timely diagnosis and referral to treatment, but also prevention and advice as regards the establishment of a healthy working environment. Procedures for medical examination prior to and during employment involving exposure to risk factors are laid down by Ministerial Regulation.

It is recalled that Article 3§4 does not stipulate a specific form of organisation of occupational health services, but requires that all workers may have access to such services. This would seem to be the case in Estonia.

Conclusion: this provision can be accepted by Estonia.

Article 4§1

The Estonian report indicates that the minimum wage based on 2008 data corresponds to about 41% of the net average wage. It is recalled that for the lowest or the minimum wage to be deemed fair under Article 4§1 it must amount to at least 60% of the net average wage.

Conclusion: it does not seem feasible for Estonia to accept this provision for the time being.

¹ It is recalled that an opinion by the delegation that Estonia could accept a provision does not mean that the situation will automatically be found to be in conformity with the Revised Charter; it simply indicates that there are no major obstacles to ratification of and compliance with the provision.

Article 7§5

Under this provision the European Committee of Social Rights looks at two categories of wage earners: apprentices and young workers. As regards the former the requirement is that the wage at the beginning of the apprenticeship should amount to at least one-third of the starting wage of an adult worker rising gradually to at least two-thirds at the end of the apprenticeship. According to the Estonian report the remuneration paid to apprentices for work must be at least equal to minimum hourly wages. Given that the level of the minimum wage in Estonia is manifestly inadequate as noted above and since the statistical information on apprentice wages in practice is not sufficiently detailed, it is not possible to reach a firm conclusion.

The same applies with respect to young workers. Here the Committee considers that they can be paid less than an adult starting wage: for 15-16 years-olds up to 30% less and for 16-18 year-olds up to 20% less.

Conclusion: more detailed information is necessary in order to assess whether Estonia can accept this provision.

Article 7§6

In application of Article 7§6 vocational training at the request of the employer must be treated as working time and must be remunerated as such. The European Committee of Social Rights delegation understood that on the basis of an employment contract training related to the job and requested by the employer is effectively regarded as working time and paid accordingly.

Conclusion: this provision can be accepted by Estonia.

Article 10§2

Having been introduced as a pilot project in 2003 a system of apprenticeship training was formally established by an amendment to the Vocational Education Institutions Act entering into force on 1 January 2006. The terms and conditions of this training are set out in a trilateral contract between the school, the employer and the apprentice. The Estonian report gives detailed information on the content of apprenticeship as well as statistical information on the uptake of the training.

The European Committee of Social Rights delegation considered that the situation was fully in compliance with the Charter, emphasising that Article 10§2 is a flexible provision which requires states to provide or promote a system of apprenticeship and "other systematic arrangements for training young boys and girls (in the past the European Committee of Social Rights found no violation where states abolished apprenticeship and replaced it with "other arrangements").

Conclusion: this provision can be accepted by Estonia.

Article 10§5

While Estonia has in place a variety of measures to promote and facilitate access to vocational training (e.g. free vocational education, a system of study allowances and loans, subsidized lunches and travel, etc. as well as procedures for involving the social partners) further clarifications are required as regards the treatment of nationals of other States Parties lawfully resident in Estonia. In particular, it would seem that student loans are not available to those lawfully resident in Estonia on the basis of a temporary residence permit.

Conclusion: subject to further clarifications, it does not seem feasible for Estonia to accept this provision for the time being.

Article 13§4

Under the Social Welfare Act every person staying in Estonia is entitled to emergency social assistance and the same applies to emergency medical assistance pursuant to the Health Care Services Organisation Act. On this basis and having regard to the information contained in the Estonian report and the explanations provided, the European Committee of Social Rights delegation considered the situation to be fully in compliance with Article 13§4.

Conclusion: this provision can be accepted by Estonia.

Article 18§1

A number of measures has been taken in recent years to facilitate the access of foreigners to the Estonian labour market: reorganisation of the authorities responsible for processing residence and work permits into a single authority (Police and Border Guard), time limits were shortened to speed up processing of applications, increased possibilities for persons who have a residence permit for the purpose of study to take up employment, the immigration quota has been increased, procedures for obtaining short-term employment were simplified and the list of foreigners who have the right to work in Estonia without a work permit was extended.

The European Committee of Social Rights delegation further noted that the Estonian report contains the data on applications for residence and work permits and in particular the refusal rates for work permits broken down by country of origin of the applicant, which are required under this provision.

Conclusion: this provision can be accepted by Estonia.

Article 18§2

Although state fees have not changed recently formalities have been simplified, see above under Article 18§1.

Conclusion: this provision can be accepted by Estonia.

Article 18§3

As noted above regulations governing the employment of foreigners have been liberalised considerably since 2008, although the conditions attached to temporary

permits regarding the employer, the place of employment and the position occupied could still be regarded as somewhat restrictive. Further information is required concerning rights in the event of loss of employment.

Conclusion: subject to further clarifications this provision can be accepted by Estonia.

18§4

Estonian law does not seem to stipulate any restrictions that go beyond those permitted under Article 18§4.

Conclusion: this provision can be accepted by Estonia.

Article 23

The Estonian report states that according to the constant case law of the domestic courts discrimination on grounds of age is prohibited. It is recalled that under the Charter non-discrimination legislation should exist at least in certain domains protecting persons against age discrimination.

The report provides detailed information on various measures taken to meet the needs of the elderly, notably within the framework of the 2007-2009 Action Plan for the elderly. The European Committee of Social Rights delegation noted that the basic objective of these measures was to ensure that elderly persons could remain active members of society for as long as possible in accordance with Article 23. However, the report also indicates that the old-age pension often does not guarantee sufficient income to elderly living on their own and doubts therefore remain as to whether the situation is in conformity with the Charter in this respect.²

The European Committee of Social Rights delegation also notes that while there are sufficient places available in old-age care homes for those who need them, living conditions are not always adequate and requests such as proximity to previous place of residence and private rooms, etc., cannot always be met.

Conclusion: it does not seem feasible for Estonia to accept this provision for the time being.

Article 26§1

Sexual harassment is defined and prohibited in the Gender Equality Act and the office of the Equal Treatment Commissioner has been established to monitor compliance with the requirements of this Act with discrimination cases to be finally resolved by the courts or a labour dispute committee. The Gender Equality Act provides for alleviation of the burden of proof in sexual harassment cases.

The European Committee of Social Rights delegation took note of various measures, including information campaigns, to combat sexual harassment. It also noted the

² It is recalled in this respect that the European Committee of Social Rights has found the national pension to be inadequate under Article 12§1 of the Revised Charter (see Conclusions 2009, Estonia).

information on cases dealt with by the Equal Treatment Commissioner and the labour dispute committee.

Conclusion: this provision can be accepted by Estonia.

Article 26§2

In addition to the protection related to sex provided by the Gender Equality Act, the Equal Treatment Act proscribes other forms of harassment defined as “unwanted conduct [...] with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.” Such forms of harassment are deemed to constitute discrimination under Estonian law.

While recalling that the European Committee of Social Rights does not automatically equate harassment with discrimination, the delegation considered the situation to be in full conformity with the Charter with a legal protection that in some respects even went beyond the requirements of Article 26.

Conclusion: this provision can be accepted by Estonia.

Article 30

Poverty is not defined in Estonian legislation, but Parliament annually establishes a subsistence level which can be regarded as the poverty line. The report contains detailed statistics on absolute poverty levels (6.2% of families living in absolute poverty in 2007 down from 15% in 2004) and on the relative poverty rate (19.5% in 2007 compared to 18.3% in 2004).

The European Committee of Social Rights delegation noted the measures taken to combat poverty, in particular within the framework of the various development plans such as the National Action Plan on Social Inclusion and Europe 2020 and Estonia 2020. While the relative poverty rate in Estonia remains rather high, the policies conducted as part of these development plans on the whole seem to correspond to the requirements of Article 30.

Conclusion: this provision can be accepted by Estonia.

Article 31§1

According to the report the local authorities in Estonia are responsible for following the housing situation and to take necessary measures to supply suitable housing and to reduce homelessness. The notion of adequate housing is not defined in Estonian law and the report states that the quality of the housing stock is worse than in many other European countries (rooms are smaller, technical facilities are worse, etc.).

Housing policy is based on the Housing Area Development Plan which contains various measures to improve access to housing. The European Committee of Social Rights delegation noted in this respect the focus on vulnerable target groups (e.g. single parents, the elderly, disabled persons, etc.). It also noted that the problem of people being forced to live as tenants in restituted houses has not been solved everywhere in

Estonia and that are still many applicants on waiting lists for municipal housing in some areas.

Conclusion: it does not seem feasible for Estonia to accept this provision for the time being.

Article 31§2

The report states that homelessness is a problem in the large cities in Estonia. Statistics are provided on the use of homeless accommodation and shelters. As noted above the local authorities are tasked with reducing homelessness, including *inter alia* establishing the limits of fixed housing expenses used as the basis for granting subsistence benefits.

In order to assess the situation properly more information would be needed on rules and procedures pertaining to eviction.

Conclusion: on the basis of the information available it is not possible to reach a clearcut conclusion, but given the complexity of the requirements flowing from it does not seem feasible for Estonia to accept this provision for the time being.

Article 31§3

The European Committee of Social Rights delegation took note of information on the efforts to provide affordable housing, in particular through subsidised housing and subsistence benefits for low income groups. Although the construction of social housing units is underway and although overall the number of unsatisfied applications for housing has decreased in recent years, the demand still exceeds the supply by far. In Tallinn, for example, about 80% of all housing applications were unsatisfied by the end of 2009.

The European Committee of Social Rights delegation also noted the view of Statistics Estonia according to which “the cost of residential premises and rent on the private rental market is too high for the majority of less privileged households and the quantity of social housing offered by the public sector is small.”

Conclusion: it does not seem feasible for Estonia to accept this provision for the time being.

Appendix I

Programme

Meeting in Tallinn, Estonia, on 20 September 2010 in the framework of the procedure on non-accepted provisions

Provisions not accepted by Estonia:

Articles 2§4, 3§4, 4§1, 7§5, 7§6, 10§2, 10§5, 13§4, 18 (all), 23, 26 (all), 30 and 31 (all).

Programme:

Monday 20 September:

9h30 – 10h30

Meeting in the Ministry of Social Affairs

Secretary General, Ms Marelle Erlenheim,
Deputy Secretary General on Labour Policy, Ms Egle Käärats,
Deputy Secretary General on Social Policy, Mr Riho Rahuoja,
Deputy Secretary General on Health, Ms Ivi Normet,
Adviser to the Minister, Ms Kristel Abel,
Head of Legal Policy, Ms Juta Saarevet,
Head of Public Relations Ms Diana Lorents.

Venue: Ministry of Social Affairs
The meeting will be conducted in English.

11h00 – 12h30

Hearing with the Social Affairs Committee of the Parliament

Venue: Riigikogu, the Estonian Parliament
Translation: consecutive translation

13h00 – 14h30

Lunch

Hosted by the Deputy Secretary General on Social Policy, Mr Riho Rahuoja,

15h00 – 17h00

Meeting with representatives of ministries (inter alia Foreign Affairs and Justice), Prime Minister's Office, social partners, NGOs (e.g. the Estonian Welfare Association and the Estonian Chamber of Disabled People) and universities

Venue: Ministry of Foreign Affairs
Translation: simultaneous translation

Appendix II

CEAD Synopsis

Title Examination of non-accepted provisions


Description

Status Planned

Date 20/09/2010

Countries CoE Members: [Estonia](#)
Groups: [All Council of Europe member states](#)
Multilateral

CoE Programmes (PoA and VC)

 Programme of Activities

Chapter I – Social Cohesion

LoA IV.1 – [Ensuring social cohesion](#)

Programme IV.1.1 [European Social Charter](#)

Project [2008/DGHL/1421 Implementation of ECSR decisions and conclusions and improvement of communication on the ESC](#)

Expected Result [2 The number of ratifications of the Charter instruments and the number of provisions accepted are increased.](#)

Nature of Intervention [Dissemination and Support](#)

Activity Type [Evaluation / Assessment](#)

Working Method [Expert Meeting / Expertise](#)

Location Tallinn, Estonia

Directorate (Service) [Human Rights and Legal Affairs \(Monitoring - European Social Charter\)](#)

CoE Contact KRISTENSEN, Henrik [email](#)

Partners

Web Pages 1 <http://www.coe.int/socialcharter>

Documents & links

Last Modified 25/05/2010 [THEREAU, Catherine](#)

CEAD OWNER [KRISTENSEN, Henrik](#)

Origin/DG Remarks

Secretariat

Estimated Cost **Real Cost**

Purchase Order(s)

Activity Synopsis (ID# 28689) ([Hide Synopsis](#))

Objective(s) To discuss the provisions not yet accepted by Estonia and to encourage their acceptance where appropriate based on a

preliminary assessment of the situation in law and in practice.

This was the second meeting with Estonia on the non-accepted provisions the first having taken place in 2005 (pursuant to Committee of Ministers decision, the exercise is carried out every five years in respect of States Parties to the Revised Charter).

Output/Results Three separate meetings were held:

1) a meeting with the top leadership of the Ministry of Social Affairs for a technical review of the provisions concerned (Articles 2§4, 3§4, 4§1, 7§5, 7§6, 10§2, 10§5, Article 18 (all), 23, 26 (all), 30 and 31 (all));

2) a meeting with the Social Affairs Committee of the Estonian Parliament chaired by the President of the Committee, Mr Urmas Reinsalu;

3) an open meeting held at the Ministry of Foreign Affairs with participation from different ministries, trade unions and NGOs.

The discussions largely confirmed the assessment made in 2005 as to which provisions could be accepted and for certain provisions (for example Article 10§2 and Article 18) it was clear that developments since 2005 have even strengthened the case for acceptance.

Conclusions/Follow Up The Committee will draw up a report on the meeting for transmission to the Estonian authorities with view to facilitating the process of accepting additional provisions.

The Secretariat will continue to be at the disposal of the Estonian authorities for advice on the Charter provisions concerned and the procedures involved.

Participants The European Committee of Social Rights (ECSR) was represented by its President, Ms Polonca KONCAR as well as by the Estonian member, Mr Lauri LEPPIK.

On the Estonian side the participants included from the Ministry of Social Affairs Mr Riho RAHUOJA, Deputy Secretary General on Social Policy, Ms Marelle ERLLENHEIM, Secretary General; Ms Egle KÄÄRATS, Deputy Secretary General on Labour Policy, Ms Kristel ABEL, Adviser to the Minister, Ms Juta SAAREVET, Head of Legal Policy, Ms Diana LORENTS, Head of Public Relations and Ms Merle MALVET, Head of Social Security (and Vice-President of the Governmental Committee).

In addition a number of representatives from different ministries, trade unions and NGOs took part.

Consultants/Experts

CoE Secretariat Mr Henrik KRISTENSEN, Deputy Executive Secretary of the European Committee of Social Rights.

Total No. Participants 40

Last Modified 22/11/2010 [KRISTENSEN, Henrik](#)

Appendix III

Report on the non-accepted provisions submitted by the Government of Estonia

(the Estonian report will be included in the published version)