EUROPEAN SOCIAL CHARTER

(REVISED)

Fourth Report of the Republic of Estonia

For the reference period

2003 – 2004

Articles 2, 3, 4, 9, 10, 15, 21, 22, 24, 28, 29

FORM FOR REPORTS

For the period 2003 - 2004 made by the Government of the Republic of Estonia in accordance with Article C of the Revised European Social Charter and Article 21 of the European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter, the instrument of ratification or approval of which was deposited on 11 September 2000.

In accordance with Article C of the Revised European Social Charter and Article 23 of the European Social Charter, copies of this report have been communicated to Estonian Central Federation of Trade Unions (EAKL), Estonian Employees' Unions' Confederation (TALO) and Estonian Confederation of Employers (ETK).

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ARTICLE 2 – RIGHT TO JUST CONDITIONS OF WORK

No amendments have been made during reference period in the Working and Rest Time Act[1] and its implementing legislation during the reporting period.

In 2005, two amendments have entered into force:

- a special provision on crew members of a civil aircraft concerning weekly rest period has been added (weekly days off shall be granted on-the-spot; on-call time is not included in weekly days off – subsection 21 (11) of the Working and Rest Time Act);

- Christmas Eve has been declared a public holiday – section 25 of the Working and Rest Time Act.

Paragraph 1 - Daily working time and weekly working time

Question

The Committee asks that the next report clarify any difference between the notions of "additional overtime" and "overtime".

Overtime work is work which exceeds the general national standard for working time provided by law (8 hours per day or 40 hours per week). Pursuant to subsection 9 (1) of the Working and Rest Time Act the working time together with overtime shall not exceed an average of forty-eight hours per week during a four-month recording period (reference period). Pursuant to subsection 9 (2) employees shall not be required to work overtime for more than four hours per day.

Overtime is permitted by agreement between the parties except in case of need arising from *force majeure*. In the case of *force majeure*, an employee is required to comply with an order of an employer to work overtime if such work is temporary and has to be performed promptly.

The standard limits of overtime may be exceeded for the prevention of a natural disaster or industrial accident or the expeditious elimination of the consequences thereof, for the prevention of an accident, work stoppage, or destruction of or damage to the property of the employer and for the replacement of an employee who is temporarily absent in these cases. Likewise, the standard limits of overtime may be exceeded in connection with performance of additional overtime work.

[1] All translated national legal acts and regulations are available in Internet on the address: http://www.legaltext.ee/.

Additional overtime work (individual opt out) is a possible overtime work made upon agreement concluded between the employee and the employer in addition to overtime work. It is also permitted in other cases than in the case of *force majeure* and an employee may not be required to work overtime to the extent of 200 additional hours per year. An overtime work in the extent of 200 hours is considered the overtime work that is agreed upon individually (individual opt-out). Agreement upon individual overtime work is voluntary (subsection 9 (4) of the Working and Rest Time Act), the performance of additional overtime work shall not cause exhaustion or damage the employee's health, employers are required to maintain separate records concerning the employees performing such work and submit the corresponding records to the labour inspectors of the location (residence) of the employers and to trade unions. An employee has the right to refuse to perform additional overtime work and the labour inspector of the location (residence) of an employer has the right to prohibit or restrict additional overtime work if the conditions provided by law or general requirements concerning occupational safety and occupational health are not complied with.

Question

The Committee notes that the working hours of crew members on vessels engaged in short sea shipping may not exceed 14 hours a day and 72 hours a week. It recalls that, in order to comply with Article 2§1 of the Revised Charter, working hours should amount to less than 16 hours a day and should not exceed 60 hours a week (Conclusions XIV-2, page 32) and considers the working hours to be excessive. It asks that the next report provide the number of workers concerned. In the meantime, it reserves its position on this point.

Joint discussion between the Ministry of Social Affairs and social partners took place in order to answer this question and as a result of that we state the following:

1. Estonian social partners agreed that the working hours of crew members on vessels engaged in short sea shipping do not discriminate against this group of employees.

2. The regulation of Estonian seafarers' working time follows Council Directive 1999/63/EC which mentions the agreement on seafarers' working time concluded by the European Community Shipowners Association (ECSA) and the Federation of Transport Workers Unions in the European Union (FST) and Clause 5(1)a) of its Annex according to which the limits on seafarers' working hours shall be the maximum hours of work which shall not exceed 14 hours in any 24-hour period and 72 hours in any seven-day period.

3. Estonia ratified ILO Convention No. 147 (ILO C 147) concerning Minimum Standards on Merchant Ships and its protocol of 1996 on 24 September 2004. According to Article 2 of ILO C 147, Member States, among other things, have to ensure the compliance of the working and living conditions on the ships flying their flag with the requirements of the conventions listed in the Annex of the Convention. The 1996 protocol added to the Annex of the ILO C 147 International Labour Organisation Convention No. 180 concerning Seafarers' Hours of Work and the Manning of Ships (ILO C 180). Due to the above, Estonia has to follow the requirements of this convention. According to Article 3 of the ILO C 180, the working hours of seafarers may be fixed either by the maximum hours of work or the minimum hours of rest. Estonia restricts seafarers' working hours on the basis of the maximum hours of work. According to Article 5(1) a) of the same convention, the maximum hours of work may not exceed 14 hours in any 24-hour period and 72 hours in any seven-day period. Therefore, the working hours of seafarers working on vessels engaged in short sea shipping are in compliance with international norms.

4. In subsection 44 (2) of the Seafarers Act, there is a regulation which states that "in the case of a vessel engaged in short sea shipping where the length of the working cycle of the crew members does not exceed two weeks, working time shall not exceed fourteen hours in any twenty-four-hour period and seventy-two hours in any period of seven days" and this is more favourable than the requirements of the above directive and ILO C 180 because the working cycle of crews is also limited. According to widespread practice in Estonia, many crew members on vessels engaged in short sea shipping work according to a two-week work cycle which is followed by a two-week rest-cycle. In one calendar month, they work for about 160 hours which is less than the international standard – 169 working hours a month. Due to the above, the Estonian social partners – Estonian Shipowners Association and Estonian Seamen's Independent Union – are also of the opinion that the working hours of ship crew members do not discriminate against this population group and conform to the requirements approved by the social partners.

According to information available to the Ministry of Economy and Communication, there is no national statistics on the number of crew members on transiting vessels.

Question

The Committee notes that the provisions of the Working and Rest Time Act do not apply to employees who have independent decision making powers or who conduct religious services in religious associations. It asks that the next report provide details on the type of workers this concerns, the number of workers in the mentioned categories, and any rules, statutory or otherwise, regulating their working time.

The Provisions of the Working and Rest Time Act are mandatory with regard to employees who have independent decision-making powers and who conduct religious services, except provisions regulating overtime work (Sections 7-9), working during evening and night time, recording of working time, breaks during working day and rest time between working days and weekly rest periods (Sections 11-16 and 19-21). There is no official statistics in Estonia concerning employees who have independent decision-making powers. Also, according to information available to the Ministry of Internal Affairs, the national statistics concerning the number of clerics is missing in Estonia. Congregations and associations are entered in the Register of the Ministry of Internal Affairs, but not clerics.

Question

The Committee wishes to know what is the maximum duration of individual working schedules within the framework of a flexible regime. It asks also that the next report contain information on any rules, statutory or otherwise, regulating all forms of "on-call work", for which an employee has the duty to remain at home or close to work so as to be able to work upon request of the employer.

As a rule, upon recording total working time the maximum duration of individual working schedules is four months and to six months may be applied to guards and security guards, health care professionals and welfare workers and fire and rescue workers with the agreement of the labour inspector (subsections 9 (1) and (5) of the Working and Rest Time Act). Pursuant to section 43 of the Seafarers Act the maximum duration of a recording period of a member of the crew is six months.

Upon the recording of total working time, the duration of a shift may be up to twelve hours (subsection 15 (1) of the Working and Rest Time Act). Shifts which last up to twenty-four hours may be applied to guards and security guards, health care professionals and welfare workers and fire and rescue workers with the agreement of the labour inspector.

Pursuant to section 10 of the Working and Rest Time Act the duration of on call time is up to thirty hours per week. On call hours which are not connected with staying at work are not included in working time and the employer shall pay additional remuneration for on call time. On call hours during which an employee shall stay at work shall be treated as normal working time.

Question

The Committee requests detailed information on the supervisory activities in respect of working time rules, including on the nature and number of violations determined and on applicable sanctions.

The respective detailed national statistics on the reporting period is missing, the Labour Inspectorate commenced to collect respective statistics since 2006 upon the request of the Ministry of Social Affairs.

State supervision over compliance with the requirements of the Working and Rest Time Act is exercised by the Labour Inspectorate. The labour inspector has the right to issue a precept to an employer, in the event of failure to perform an obligation specified in the precept to impose a penalty payment up to EEK 10,000.

Below are given figures about supervision over compliance with the requirements of acts regulating employment relationship (the Employment Contracts Act, the Working and Rest Time Act, the Wages Act) by the Labour Inspectorate.

Table 1: Supervision over compliance with the requirements of acts regulating employment relationship by the Labour Inspectorate.

	2004	**2005**
Number of supervised enterprises	1499	1727
Exercised supervisions	3271	3266
Including driving time and rest time of drivers of Motor Vehicles	68	59
Number of employees in the supervised enterprises	57973	50033
Issued precepts	791	1169
Warnings with penalty payment (enterprises)	227	178
Penalty payments in total, in EEK	533100	466000
Penalty payments, executed (enterprises)	11	6
Penalty payments in total, in EEK	46000	20000

Source: Labour Inspectorate.

Since most employers eliminate the established violations of requirements of legislation following the warning by the labour inspector concerning the issue of a precept or imposition of a penalty payment, no penalty payments will be collected from them.

Paragraph 2 – Remuneration for work performed on public holiday

Question

The Committee asks that the next report clarify what is meant by work stoppages.

Work stoppage is the stopping of work which may be caused by the fault of the employee or for reasons independent of him or her (breakdown of equipment, impediments in delivery etc.).

Question

The Committee asks that the next report indicate how many workers receive a payment of more than the double rate of salary for work performed on a public holiday. It also asks for information on the rates actually paid.

Work performed by all employees on a public holiday shall be remunerated at least at a double rate. An official statistics on cases where an employer has treated employees more favourably than provided by law, is missing in Estonia.

Question

The Committee asks whether the conditions governing weekly rest periods apply when work is performed on a public holiday and whether the rules governing public holidays apply to all categories of workers.

Pursuant to section 16 of the Wages Act work performed on a public holiday shall be remunerated at least at a double rate. At the request of an employee, an employer may compensate for unscheduled work performed on a public holiday in time off in lieu of money to the extent of the time worked. In such case work performed on a public holiday shall be remunerated as work performed on an ordinary working day. There is no special provision on recording of weekly rest time arising from the work performed on a public holiday except possibility, as mentioned above, to take for unscheduled work performed on a public holiday in time off in lieu of money to the extent of the time worked.

Conditions of working on days off and public holidays apply equally to all categories of workers.

Paragraph 3 – Annual holiday with pay

Question

The Committee asks whether an employee cannot be asked to interrupt his or her holiday without his or her consent.

Yes, pursuant to section 21 of the Holidays Act a holiday may be interrupted only by agreement of the parties.

Question

The Committee recalls that under the Revised Charter a minimum of four weeks holiday per year must be guaranteed and asks whether this is always the case.

The duration of an annual holiday prescribed for an employee is twenty-eight calendar days. Pursuant to section 7 of the Holidays Act employers do not have the right to withhold holidays and employees do not have the right to waive holidays.

As an exception, the holiday that is not used may be postponed, this means the right of claim for entitlement to holiday applies to holidays to be granted for the last four years (subsection 8 (1) of the Holidays act). We would emphasize that this right is rather an exception to the rule if circumstances hinder the use of a holiday (in full). As a general rule, the duty of an annual holiday and section 7, as mentioned above, applies, pursuant to which employers do not have the right to withhold holidays and employees do not have the right to waive holidays.

Question

The Committee asks whether workers who suffer illness or injury during their annual leave are entitled to take the days lost at another time.

Pursuant to subsection 18 (1) of the Holidays Act, the unused holiday or portion of holiday shall be granted immediately after end of illness, or shall be transferred to another time by agreement of the parties.

Paragraph 5 – Weekly rest period

Question

The Committee recalls that the weekly rest period may be deferred to the following week, as long as no worker works more than twelve days consecutively before being granted a two-day rest period. It asks whether this is the case.

Also, in this regard, subsection 21 (1) of the Working and Rest Time Act applies pursuant to which employees shall have at least two days off per week, whereat, pursuant to Section 3, upon the recording of total working time, the duration of weekly rest time shall be at least thirty-six consecutive hours.

Upon the recording of total working time, the duration of a shift may be up to twelve hours.

Question

The Committee notes that the provisions of the Working and Rest Time Act are not mandatory with regard to employees who have independent decision making powers or who conduct religious services in religious associations. It asks that the next report provide details on the type of workers this concerns, the number of workers in the mentioned categories, and any rules, statutory or otherwise, regulating the weekly rest period for these workers.

The official statistics to be relied upon to answer the question is missing in Estonia. See also the answer for Article 2 (1).

Question

The Committee asks that the next report provide statistics as to how many cases of violations were detected and how many led to penalties for the next reference period.

The respective national statistics on the reporting period is missing, upon request of the Ministry of Social Affairs the Labour Inspectorate has started to collect the relevant statistics since 2006.

See also the answer to the last question in paragraph 1.

Paragraph 6 – Information on employment contract

Question

The Committee asks that the next report provide information on all other means by which workers are informed in writing of the essential aspects as listed above of their written or oral employment contract or employment relationship.

Pursuant to section 28 of the Employment Contracts Act an employment contract is entered into in writing. All mandatory conditions and terms shall be agreed upon in the employment contract.

An oral employment contract may be entered into only for employment for a term of less than two weeks. In such a case a general rule shall apply, according to which the working conditions are at least equal and cannot be worse than provided for in law, administrative legislation or a collective agreement.

Paragraph 7 – Night work

Question

The Committee asks that the next report explain what is the situation when a worker requests transfer for reasons other than health and when the employer does not have the possibility to transfer the worker to such a position.

Pursuant to the Employment Contracts Act the making of amendments to the terms of work otherwise than provided for in law is the question of agreement of the parties. Thus, the answer to the question is that the solution depends on agreement of the parties.

Question

The Committee notes that the provisions of the Working and Rest Time Act are not mandatory with regard to employees who have independent decision-making powers or who conduct religious services in religious associations. It asks that the next report provide details on the type of workers this concerns, the number of workers in the mentioned categories, and any rules, statutory or otherwise, regulating night work for these workers.

The national statistics concerning the question is missing in Estonia. See the answer to Article 2 (1).

Question

The Committee asks whether there is continuous consultation with workers' representatives on the introduction of night work, its conditions and on measures taken to reconcile the needs of workers with the special nature of night work.

Pursuant to clause 22 (1) 2) of the Trade Unions Act, an employer shall inform the trade union of changes in the work organisation, and, under clause 22 (2) 2), an employer shall consult the trade union when changing or establishing working time or work regime.

[redacted]

ARTICLE 3 - THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

Estonia ratified the ILO conventions No. 81 and 129: Convention concerning Labour Inspectorate in Industry and Commerce and Convention concerning Labour Inspectorate in Agriculture. Ratification Act was adopted on 24 November 2004, entered into force on 1 February 2005.

During the reporting period amendments in the Occupational Health and Safety Act and in the Chemical Act were made. The Radiation Act and the Deliberate Release Into the Environment of Genetically Modified Organisms Act were adopted. Radiation Act entered into force 01.05.2004. Deliberate Release into the Environment of Genetically Modified Organisms Act entered into force 01.05.2004.

During the reporting period were adopted or amended the following regulations of the Government of the Republic:

- "Conditions, Frequency of and Procedure for Performance of Medical Examination of Prison Officers, Social Workers of Prisons and Prison Officer Candidates" (No. 384, adopted 30 November 2000, amended with regulation No. 87 adopted 18 March 2003);

- "Health Requirements for Divers, List of Health Examinations Included in Preliminary and Routine Medical Examinations, Extent and Frequency of Medical Examinations and Procedure for Issue of Health Certificates" (No. 290, adopted on 21 November 2003);

- "Procedure of health examinations of locomotive drivers" (No. 84, adopted 25 March 2004);

- "Bases for Calculation of Exemption Values, and the Exemption Values for Radionuclides"1 (No. 163, adopted 30 April 2004) (COUNCIL DIRECTIVE 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation);

- "Risk Factors in the Working Environment and Work Upon Which Working for Minors is Prohibited (No. 171, adopted 30 April 2004);

- "List of Light Work Permitted to Perform by Minors" (No. 172, adopted 30 April 2004);

- "Limits for Effective Doses for Exposed Workers and Members of the Public, and the Limits for Equivalent Doses for Lens of Eye, Skin and Extremities"[1] (No. 193, adopted 17 May 2004) ([1]COUNCIL DIRECTIVE 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation);

- "Specifications for Processing the Documents for the Import, Export or Transit of Radioactive Waste Based on the Countries of Origin and Destination of the Waste"[1] (No. 243, adopted 8 July 2004) (COUNCIL DIRECTIVE 92/3/EURATOM of 3 February 1992 on the supervision and control of shipments of radioactive waste between Member States and into and out of the Community);

- "Statutes of the National Dose Register for Exposed Workers" (No. 244, adopted 8 July 2004);

- "Safety requirements for mining and the secondary utilisation of workings" (No 172, adopted on 10 August 2004);

- "Health Requirements and Procedure for Medical Examination and Format of Health Certificates of Persons Wishing to Enter into Seafarer's Contract of Employment, Crew Members, Persons who Commence Studies at a Maritime Educational Institution in the Formal Educational System and Students at a Maritime Educational Institution in the Formal Educational System" (No. 51, adopted on 16 March 2005);

- "Health Requirements and Procedure for Medical Examination of Direct Handlers of Explosive Substances and Pyrotechnicians" (No. 150, adopted 30 June 2005);

- "Health Requirements and Terms of Health Examinations Included in the Initial and Routine Medical Examinations and Format of Health Certificates of Drivers of Motor Vehicles, Tram Drivers and Applicants of Driving Licence" (No. 257, adopted 29 September 2005);

- "Medical Examination of Persons Liable to Service in the Defence Forces and Members of the Defence Forces" (No. 282, adopted on 11 November 2005);

- "Occupational health and safety requirements for using carcinogenic and mutagenic substances at workplace" (No. 305, adopted on 15 December 2005);

- "Health Requirements and Procedure for Medical Examination and Issue, Extension and Revocation of Health Certificates of Crew Members of Aircraft, Air Traffic Controllers and Flight Information Services Officers and Persons who Study and Commence Studies in the Mentioned Specialities (No. 325, adopted 22 December 2005).

During the following regulations of the Minister of Social Affairs were established or amended:

- „Registration of Occupational Health Service providers and the list of documents required" (No. 90, adopted 20 June 2003, amended with regulation No. 113 from 12 October 2004);

- The requirements for identification, classification, packaging and labelling of dangerous chemicals" (No. 122, adopted 3 December 2004);

- "The procedure for recording of dangerous chemicals" (No. 131, adopted 17 December 2004) (RTL 2004, 158, 2379);

- "List of occupational diseases" (No. 66 , adopted 9 May 2005);

- "Restrictions on the handling of chemicals that are dangerous to the population and the environment" (No. 36, adopted 28 February 2005);

- „Health Requirements for Rescue Officers and Procedure for Verifying Compliance with Health Requirements" (No 95, adopted 18 August 2005).

A regulation of the Minister of Internal Affairs was established:

- "Conditions and Procedure for Medical Examinations and Vaccination of Officials of Expulsion Centres of the Citizenship and Migration Board" (No. 57, adopted 28 October 2004).

The following regulations of the Minister of Environment were established:

- "Time Limits for Proceedings to Issue, Amend or Revoke Radiation Practice Licences, Specific Requirements for and Format of Applications for Radiation Practice Licences, and Format of Radiation Practice Licences" (No. 41, adopted 29 April 2004);

- "Intervention Levels and Action Levels, and Limits for Emergency Exposure in a Radiological Emergency" (No. 93, adopted 14 July 2004);

- "Requirements for the Premises Where Radiation Sources are Located, the Marking of Such Premises and the Radiation Sources, and the Rules for the Performance of Radiation Practices" (No. 113, adopted 7 September 2004);

- "Format of Activity Licences of Qualified Experts and Licence Applications and Procedure for Issue, Extension, Suspension and Revocation of Activity Licences" (No. 127, adopted on 12 October 2004);

- "Classification of Radioactive Waste and Requirements for Registration, Management and Delivery of Radioactive Waste and Radioactive Waste Acceptance Criteria" (No. 8, adopted 9 February 2005);

- "Clearance Levels for Radioactive Substances and Materials Contaminated with Radioactive Substances Resulting from Radiation Practices, and the Requirements for their Clearance, Recycling and Reuse" (No. 10, adopted 15 February 2005);

- "Procedure for Monitoring and Estimation of Effective Doses Incurred by Exposed Workers and Members of the Public, and the Dose Coefficient Values, and Radiation and Tissue Weighting Factor Values for Doses Resulting from Radionuclide Intake" (No. 45, adopted 26 May 2005).

Paragraph 1 – Occupational health and safety and working environment

In addition to the information provided in the previous report we note the following:

The tasks of the Ministry of Social Affairs in regulating the area are:

- drafting and implementation of development strategies;

- legislative drafting; drafting and implementation of international and national programmes;

- opening of education institutions for employees and employers and drafting curricula, inspecting the quality of education;

- consulting with social partners and taking into account their proposals;
- ordering labour environmental research, making of conclusions thereof;
- calling public attention; organisation of state and supervision and determining the role of the labour inspector; participation in work of international (EU) organisations of the particular area and adherence to the given instructions;
- registration of educational institutions and maintaining records on these.

In 2004, the Occupational Health Centre was merged with the Health Care Board under the Ministry of Social Affairs. The aim of the change was to assure an improvement of the accessibility and quality of occupational health services to employers and employees. The Occupational Health Centre continues to perform substantially the same tasks as a department of the Health Care Board. As occupational health is a significant area of health care and an integral part of the health care system and public health, the merger with the Health Care Board was expedient, as the main task of the Board is assurance of quality and supervision of health care services.

Question

The Committee asks to what extent is the Working Environment Council involved in health and safety regulation making.

The Working Environment Council reviews on its sessions the proposals on legislation, primarily on the Occupational Health and Safety Act and on drafts of its most important implementing legislation made by social partners. The discussions on the sessions are preceded by consultations in written form with social partners, employers and central organisations of employees.

The Working Environment Council as a consultative body does not draft rules, but gives assessments to corresponding drafts of regulations and rules.

The Working Environment Council has also published some recommendations (e.g. in connection with monotonous work including repeated movements).

Question

The Committee asks to be informed of any development in the sectorial consultation process.

A series of triangular consultations and negotiations have been held (the Government, central organisations of employers and employees) with the aim to implement an insurance system for accidents at work and occupational diseases during 2003 to 2005. Negotiations go on.

Pursuant to the Occupational Health and Safety Act an employer is imposed an obligation to assess the risks involved in work and to take preventive measures, consulting with employees and their representatives on their choice and implementation.

Question

The Committee asks the next report to provide information on the prevention activities carried out by labour inspectors.

Upon assuring a safe working environment and preventing accidents at work and occupational diseases the Labour Inspectorate carries out the state supervision through its network of regional offices. The Labour Inspectorate is responsible for: supervision of performance of legislation and assessment of condition of working environment of enterprises; supervision of compliance with the precepts together with assessment of changes made in the enterprise and imposing penalty payment upon failure to comply with precepts; organisation of market supervision of personal protective equipment; registration of occupational accidents, investigation of reasons for serious and fatal occupational accidents and application of measures to avoid recurrence of similar accidents.

Bringing workplaces and work equipment into line with requirements provided by law shall contribute to prevention of occupational accidents.

One of the activities of the Labour Inspectorate is to consult employers and employees during inspection of enterprises and regular office hours in regional offices of the Labour Inspectorate. In 2004, 2,508 employers and 4,471 employees were given assistance in solving problems concerning occupational health, occupational safety and employment relationship (in 2003, respectively 3,473 and 6,400).

Execution of advertising campaigns on occupational safety shall be one of the activities which will prevent occupational accidents. In Estonia, an occupational safety campaign was organised in enterprises of timber and furniture industry (in 2004), construction safety campaign (in 2005) and noise campaign (in 2005).

Estonia participated in construction safety campaign initiated by SLIC (the Senior Labour Inspectors Committee organised by the European Commission) and the European Commission. The campaign was took place from 6 to 19 June and from 26 September to 9 October 2005.

A noise campaign in the framework of European Week for Safety and Health at Work was conducted in October 2005. In the framework of this week the seventh occupational health day was organised together with the Coordination Centre of the EU under the slogan ”STOP THAT NOISE!” which covered the reasons for occupational damage caused by noise and the need to assure healthy working conditions.

Paragraph 2 – Issue of safety and health regulations

Question

The Committee asks for the next report to indicate:

- whether measures banning and/or restricting the use of asbestos or materials containing asbestos at places of work exist in Estonian law and whether limits for exposure have been set pursuant to Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work[1], as amended by Council Directive 91/382/EEC of 25 June 1991[2];

The regulation of the Government of the Republic „Occupational health and safety requirements from the risks related to exposure to asbestos at work" (adopted 7 February 2000) which is drafted on the basis of this directive, is in force in Estonia.

The Ministry of Social Affairs in co-operation with the Health Development Institute has launched asbestos safety partnership programme „Managing occupational risks related to asbestos in Estonia", in conformity with the EU directive 2003/18/EC. Duration of the programme is 18 months (2006 to 2007).

- what measures have been taken to ensure the proper protection of workers against ionising radiation and whether maximum permissible doses have been set in accordance with the 1990 recommendations of the International Commission on Radiological Protection (ICRP);

The occupational health and safety requirements for work performed by persons working on the basis of employment contracts and to public servants, the duties of employers and workers in creating and ensuring a working environment which is safe for health, the organisation of occupational health and safety in enterprises and at the state level, the procedure for conduct of challenge proceedings, and liability for violation of the occupational health and safety requirements are all stipulated in the Occupational Health and Safety Act which took effect on 26 July 1999. According to this Act, employers have to ensure compliance with the occupational health and safety requirements in every aspect related to the work. The Act lists all risk factors which employers have to pay attention to when fulfilling the occupational health and safety requirements. The list of physical risk factors also includes ionising radiation.

According to the Act, employers have to carry out risk analysis of the work environment during which all risk factors, including ionising radiation, which may affect employees' health, have to be identified. If necessary the parameters of the risk factors have to be measured. Employers have to inform their employees of the risk factors, the results of risk assessments of the working environment and of the measures to be implemented in order to prevent damage to health, through working environment representatives, members of the working environment council and workers' representatives.

Taking into account the identified risk factors and measured parameters, employers have to mark the dangerous areas, where the number of workers has to be minimised and employees working there have to be given personal protection equipment. Employers who may be exposed to radiation have personal dosimeters. They have work cloths and cleaning and washing agents.

Employer have to draw up and approve safety manuals for the work done and equipment used, to organise introductory and primary instruction and training on safe work methods which has to be carried out by the respective specialists.

Employers have to organise health checks for new employees during the first month of their employment. These health checks are carried out by occupational health physicians during work time, at the expense of employers and on the basis of the results of the risk assessment of the work environment.

State supervision over compliance with the requirements provided by the Occupational Health and Safety Act and legislation established on the basis thereof is exercised by the Labour Inspectorate. During inspections carried out in companies where risk factors include ionising radiation, the Labour Inspectorate officials pay special attention to risk assessment of the work environment, work environment training of employees, employees' personal protection equipment and existence of instructions to be followed in case of emergencies.

The Occupational Health and Safety Act specifies the requirements for the protection of employees' health in general and it is supplemented with the specific requirements stipulated in the Radiation Act.

The Radiation Act entered into force on 1 May 2004. The Act provides for basic safety standards for the protection of persons and the environment against the dangers arising from ionising radiation and the rights, obligations and liability of persons upon the use of ionising radiation. The Act regulates radiation practices and activities upon which the presence of natural radiation sources may lead to a significant increase in the exposure of workers or members of the public, intervention in cases of radiological emergencies or in cases of lasting exposure resulting from the after-effects of a radiological emergency or a past practice.

The protection is mainly assured through issue of a radiation practice licence – in different stages the used equipment, the knowledge of people as well as the doses incurred by exposed workers shall be monitored.

According to the Radiation Act, employers who engage in radiation-related activities have the following obligations:

- to be responsible for radiation safety in the company;
- to prepare the rules necessary for performing radiation practices and instructing exposed workers;
- to provide training and radiation safety instruction for exposed workers commensurate with the nature of their work and workplace conditions;
- to organise the medical examination of exposed workers;
- to ensure the monitoring of the doses incurred by exposed workers and submission of the obtained information to the dose registry;
- to prepare an emergency plan if the person engages in high risk radiation practices and test the plan pursuant to the requirements and with the frequency established by legislation;
- to improve the technologies, equipment and techniques used;
- to develop and implement a radiation safety quality system;

- to appoint a radiation safety specialist with the duty to organise compliance with radiation safety requirements.

On the basis of this Act several regulations of the Government of the Republic and of the Minister of Environment, mentioned above, have been adopted, including the regulation of the Government of the Republic on "The Limits for Effective Doses for Exposed Workers and Members of the Public, and the Limits for Equivalent Doses for the Lenses of the Eyes, Skin and Extremities" and the regulation of the Minister of Environment on "The Procedure for Monitoring and Estimation of Effective Doses Incurred by Exposed Workers and Members of the Public, and the Dose Coefficient Values, and Radiation and Tissue Weighting Factor Values for Doses Resulting from Radionuclide Intake" on the basis of EU Council Directive 96/29/EURATOM.

- what measures have been taken to provide non-permanent workers with information, training and medical supervision appropriate to their employment status, to ensure that they do not suffer discrimination in regard to health and safety at work.

The legislation, currently in force, does not draw any distinctions between non-permanent employees and employees working on the basis of an employment contract entered into for an unspecified term, i.e. an employer has been imposed an obligation to ensure compliance with the occupational health and safety requirements to be applied equally to all employees. The Employment Contracts Act provides that fixed-term workers shall not be treated in a less favourable manner in an employment relationship than comparable permanent workers unless different treatment is justified on objective grounds arising from the law or collective agreement (for example it is reasonable to connect the right to receive some guarantees with length of employment, duration of employment or terms of remuneration).

Conclusion

Noting that self-employed persons in Estonia are not covered by the occupational health and safety laws, the Committee considers that the situation is not in conformity with Article 3§2 of the Revised Charter.

The requirements of Estonian legislation concerning occupational health and safety have not been applied to self-employed persons. The main reason is that the legislation in this area in Estonia is based on the EU Framework Directive 89/391/EEC and individual directives arising from it which are merely applicable to work of persons employed under employment contract.

In 2005, extension of the scope of Occupational Health and Safety Act to include the work of self-employed persons was initiated. According to the draft Act, a self-employed person shall ensure good technical condition and proper use of tools, personal protective equipment and other machinery belonging to him or her and shall participate in joint activities concerning occupational safety with the aim not to endanger his or her own life and health and the life and the health of other employees at the workplace. The draft Act is circulating for approval in the other ministries.

Paragraph 3 – Ensuring entering into force safety and health protection rules

In addition to the materials submitted in the previous report we note the following:

In order to ensure compliance with the occupational health and safety requirements the Labour Inspectorate uses supervision methodology that is approved by General Director of the Labour Inspectorate with his directive No. 10 of 31 March 2004.

- The Labour Inspectorate supervises 52,700 employers registered in the Commercial Register and the Non-profit Associations and Foundations Register, of whom 49,600 are registered in the Commercial Register as public limited companies and private limited companies and 3,100 institutions (these numbers are changing continuously as new companies will be registered in and the liquidated and bankrupt companies will be deleted from the Commercial Register). In addition to that about 20,000 self-employed persons are registered in the Commercial Register whom the Labour Inspectorate, as a rule, does not supervise.

- The Labour Inspectorate supervises ca 2,500 to 3,000 employers per year, i.e. 5 to 6% of the number of registered employers. The number of supervisions is considerably bigger than the number of supervised enterprises because sometimes there is need to visit some enterprises several times for some reasons (e.g. to co-ordinate and give approvals arising from the acts, to review the applications of employees, to issue precepts to employers after completion of investigation in connection with severe or fatal occupational accident, execution of a posterior supervision etc.). The number of supervisions depends on the size of enterprises under supervision and the methodology of supervision used in one year or another.

- In 2004 8,289 supervisions (in 2003 – 5,843) were carried out, of them compliance with the legislation regulating occupational health and safety were supervised 5,018 times and compliance with the legislation regulating employment relationship 3,271 times. The supervision covered 2,626 enterprises, of them in 1,243 working environment was assessed in whole. 141,530 employees worked in the supervised enterprises.

In 2004, some 2,854 precepts were issued to employers, whereof 2,063 concerned elimination of violations of requirements of legislation governing occupational health and safety and 791 concerned elimination of violations of requirements of legislation governing employment relationship. The work endangering workers' lives was suspended at 85 working places and the use of a dangerous tool was prohibited in 108 instances.

Misdemeanour matters of 140 legal persons and 43 natural persons (in 2003 – respectively 80 and 38) were heard on the basis of the Code of Misdemeanour Procedure. Fines were imposed on 131 legal persons, totalling EEK 670,750 (in 2003 – EEK 297,900) and on 42 natural persons in the amount of EEK 50,500 (in 2003 – EEK 42,020). The fines imposed amounted to EEK 721,250 in total (in 2003 – EEK 339,920). On the basis of the Substitutive Enforcement and Penalty Payment Act, 1,165 employers were cautioned with penalty payments, whereof 938 persons for violation of requirements of legislation governing occupational health and safety and 227 for violation of requirements of legislation governing employment relationship, in a total amount of EEK 3,638,210. Penalty payments were enforced in 65 instances in the amount of EEK 234,200.

According to the Statistical Office, 595,500 persons between 15 to 74 years of age were employed in 2004.

In 2004, some 3,269 reports on occupational accidents (in 2003 – 3,230) were submitted to the regional offices of the Labour Inspectorate. 550 occupational accidents (in 2003 - 543) took place per 100,000 employees. 34 employees died and 949 were seriously damaged in the performance of their duties (in 2003 respectively 31 and 906).

Most of all serious occupational accidents occurred:

- In metal industry – 07, i.e. 11% of all serious accidents (in 2003 – 97, i.e. increase 10%);
- In construction – 94, i.e. 10% of all serious accidents (in 2003 - 93, i.e. the same level);
- In wholesale and retail – 92, i.e. 10 % of all serious accidents (in 2003 – 103, i.e. decrease 11%);
- In timber industry – 82, i.e. 9% of all serious accidents (in 2003 – 91, i.e. decrease 10%)

Analysis of occupational accidents by fields of activity shows that most occupational accidents per 100,000 employees occurred in chemistry, rubber and plastic industries – 1777 (compared with 2003 increase 29%), in timber industry – 1518 (compared with 2003 decrease 4%); in furniture industry – 1428 (compared with 2003 decrease 9%); in food industry – 1144 (compared with 2003 increase 8%); in mining industry – 1052 (compared with 2003 increase 28%) and paper industry and printing industry – 1020 (compared with 2003 increase - 4%).

In 2004, some 132 first-time diagnosed occupational diseases were registered in the Labour Inspectorate (in 2003 – 101) – for 73 men and 59 women.

Table 2: Main diagnosed occupational diseases.

	2003		**2004**	
	number	**%**	**number**	**%**
Overwork fatigue	54	53,5	64	48,4
Vibration disease	15	14,9	30	22,7
Hearing impairment	21	20,8	20	15,1

Source: Ministry of Social Affairs.

Question

The Committee's view is that in absolute terms and in comparison with other Parties, the number and frequency of occupational accidents are very low. It points to a study consulted on the website of the Baltic Sea Network on Occupational Health and Safety[4] which suggests that the reason for this situation is that accidents at work are under-reported and under-estimated. The Committee asks the Estonian Government to comment on this.

In order to avoid concealment of occupational accidents section 22 of the Occupational Health and Safety Act specifies that a doctor shall inform the regional office of the Labour Inspectorate in writing of declaring a worker who received health damage as a result of an occupational accident to be incapacitated for work for a period of at least one day. On the basis of these notices a labour inspector shall verify whether employers have implemented investigation of occupation accidents and submitted reports on occupation accidents in compliance with the procedure provided for in legislation. If an employer has not submitted a report on the occupation accident within the specified term, the labour inspector has the right to demand that the employer explain the reason and if necessary, will visit the enterprise in order to find out whether it was an occupational accident or not. Determination and investigation of the circumstances of such accidents have significantly increased the working load of labour inspectors because often it will become apparent that these accidents were not occupational accidents.

A doctor will make a notice on the basis of statements of a victim but in the course of investigation of an occupational accident it becomes apparent that it is not the occupational accident but a domestic accident. A reason for such a behaviour of a victim and a doctor may arise from the fact that aid is rendered and aid is financed within the framework of general health care and the persons are not motivated to fix the real reason for an injury or disease. The statistics of occupational accidents should become better after entering into force of the Insurance for Accidents at Work and Occupational Diseases Act. At the moment the concept of draft Act is under preparation. Discussion on the concept is included in the work schedule of the Government of the Republic.

Question

The Committee asks whether inspectors can enter work premises without prior notice.

Yes, they can. In the draft Occupational Health and Safety Act Amendment Act this principle is more clearly emphasized and is formulated in following: „A labour inspector has right to monitor adherence to the requirements of this Act and legislation based on this Act, and, where appropriate, without prior notice.".

Question

The report says that there were 55 000 recorded violations of occupational health and safety rules in 2001 and that 255 individuals and 44 legal persons were fined. The equivalent figures in 2002 were 21 000, 184 and 37. The Committee finds the proportion of individuals penalised to be small in relation to the total number of violations recorded, and asks for an explanation of this.

The Labour Inspectorate can apply misdemeanour proceedings or penalty payment procedure. Upon failure to comply with a precept the labour inspector may impose penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (subsection 26 (4) of this Act).

A misdemeanour proceeding shall be commenced after all other state supervision measures against persons who violate law have been exhausted or an act constitutes a material violation or breach of requirements of occupational health and safety. A labour inspector shall decide upon commencement of misdemeanour proceedings, taking into account expedience of the misdemeanour proceedings.

As the greater part employers eliminate the disclosed violations of requirements of legislation on receipt of a warning from the labour inspector on a precept or imposition of a penalty payment, no penalty payments will be collected and no misdemeanour proceeding will be applied. Therefore the number of punished persons is small.

Question

The Committee asks for details of the labour inspectorate's administrative capacity (number of inspectors monitoring compliance with the occupational health and safety regulations) and of the initial and ongoing training which inspectors receive.

In the whole structure of the Labour Inspectorate 66 persons deal with problems of occupational safety (OS) and occupational health (OH). These are divided as following:

- Monitoring activities of the OS and the OH are planned, co-ordinated and analysed by the Monitoring Department of the Labour Inspectorate which staff consists of 6 specialists.

- Monitoring is exercised by 14 regional offices which consist of 60 officials dealing with the OS and the OH monitoring, of them 14 chief inspectors, 1 deputy chief inspector and 45 labour inspectors. In addition to 45 inspectors the OS and the OH monitoring is also exercised by 10 chief inspectors of smaller offices and deputy chief inspector, thus 56 officials in total.

Training of labour inspectors is arranged in conformity with training schedule approved by the chief executive officer. Training schedule is planned for one year. Prior to that the training needs for labour inspectors shall be ascertained and assessed in co-operation with regional offices. Most of the training providers are the inspectors of the Labour Inspectorate, more rarely the lecturers are hired from outside. There are two leading labour inspectors in the Labour Inspectorate who arrange and carry out training and in-service training of labour inspectors.

The trainings bought from outside are mainly the trainings concerning the EU.

Consistent in-service training of labour inspectors contributes to maintain high standard of labour inspectors, to update on alterations of legislation of general and special application and adoption of new acts, as well as acquire new trends in inspectors' work.

When assuming office, new labour inspectors go through primary training consisting of regional part and training carried out in the centre. Each new inspector shall be designated an instructor from the regional office who shall draft a training plan for the new inspector. Duration of the primary training in the regional office is approximately one month. During that time the new inspector shall receive a review on organisation of work, plans, methods of work, legislation on occupational safety and occupational health, preparing a precept, monitoring and the rules of procedure thereof. In addition to introductory training, a training period with duration of 2 to 4 days shall be carried out in the centre during which inspectors will receive knowledge about legislation on occupational safety and occupational health, investigation of occupational accidents and other topics. Thereafter they will undergo practical training with duration of 2 to 4 weeks in regional offices during which the new inspector shall work together with an experienced inspector. The introductory training shall be terminated with the decision of the chief inspector on the basis of which the inspector will receive permit to work independently.

Question

The Committee asks for details in the next report on the arrangements for co-operation and consultation between the labour inspectorate and employers' and workers' organisations.

The Labour Inspectorate co-operates with the organisations of employers and employees. A co-operation agreement on change of information has been concluded between the Labour Inspectorate and Confederation of Estonian Trade Unions if representatives of trade union shall be involved in inspection process of enterprises. The Labour Inspectorate co-operates with employers' associations upon organisation of national safety campaigns in enterprises representing different fields of activity. Safety campaigns have been carried out in construction industry, in the enterprises of timber and furniture industries etc. Reports on safety campaigns and special inspections carried out by the Labour Inspectorate shall be submitted to the respective associations of employers and trade unions for the purpose to make inferences.

ARTICLE 4 – RIGHT TO A FAIR REMUNERATION

Paragraph 2 – Additional remuneration for overtime

Question

The Committee notes that if working time is unlimited, no additional remuneration is paid. It asks that the next report clarify what is exactly meant by unlimited working time.

Additional remuneration for overtime or compensation by time off in lieu of money shall be paid by the employer (subsection 14 (1) of the Wages Act). Overtime is work by employees which exceeds the agreed standard for working time which is 8 hours per day or 40 hours per week. Upon the recording of total working time, overtime is the working hours which exceed the total number of working hours in a recording period (subsections 7 (1) and (2), and subsection 4 (1) of the Working and Rest Time Act). Thus, additional remuneration for overtime is paid both in the case of total working time calculation and in the case of calculation based on working-days.

Pursuant to subsection 1 (3) of the Working and Rest Time Act implementation of certain provisions, including standard limits on overtime, is not mandatory with regard to employees who have independent decision-making powers and determine their working time themselves pursuant to their employment contracts, and their working time is not directly or indirectly determined by unilateral decision of the employers or agreement between the parties (clause 1 (3) 1) of the Working and Rest Time Act) and conduct religious services in religious associations (clause 1 (3) 2) of the Working and Rest Time Act). Unlimited working time is a working time which is not determined by unilateral decision of the employer or which is not agreed upon in a employment contract. These are exceptional cases in the arrangement of working time of employees who have independent decision-making powers and who conduct religious services. The mentioned exceptions are set as a closed list.

Question

The Committee asks whether crew members of ships, homeworkers, workers who belong to the workers' family, family day carers, and domestic employees are entitled to compensation for overtime work.

Each employee who accepts to comply with an order of an employer to work overtime will be paid additional remuneration or will be compensated by time off in lieu of money, including the above mentioned employees.

Paragraph 3 – Non-discrimination of male and female workers on the basis of remuneration

As Estonia has ratified Article 20, the report shall be submitted under this Article.

Paragraph 4 – Reasonable period of notice before termination of an employment contract

Conclusion

The Committee concludes that the situation in Estonia is not in conformity with Article 4 § 4 of the Revised Charter on the grounds that in certain cases, workers are given unreasonably short notices of termination of employment. These cases include one month's notice for workers who are dismissed due to unsuitability for the post, where the worker concerned has 5 years or more of service; two weeks' notice for workers whose contract is terminated because of long-term incapacity, where the worker concerned has at least one year of service.

Pursuant to the Republic of Estonia Employment Contracts Act (ECA), an employer is required to notify an employee of termination of a contract of employment at least one month in advance when the employee is unsuitable for the post, irrespective of the employee's length of service with employer (ECA, clause 87 (1) 4)). In practice, it is very unlikely indeed, that an employee who has performed the same kind of work for over 5 years is dismissed on grounds of unsuitability for the job. Unsuitability of an employee becomes evident mostly during the trial period. If an employee has successfully completed the probationary period and unsuitability for the post or the work to be performed has been established only later, it is improbable that it would have taken years, i.e. it is unlikely that an employee can have attained service longer than 5 years with that employer. Further, an employer is required to use other means for a better organisation of work (retraining and further training) and offer another job for an employee. Unsuitability may occur during employment relationship, for instance because of reorganisation of production or work; in this case an employment contract may be terminated with reference to unsuitability only if the employee refuses to participate in training provided by the employer. Further, the lack of a document entitling the holder to perform a particular job can be regarded as unsuitability (e.g. a driver cannot drive while his/her licence is suspended because of traffic offences). Employer is obliged to offer an employee the kind of work suitable for his/her capabilities. An employer is always required to justify the need to terminate a contract of employment with an employee for reasons of unsuitability (ECA, subsection 87 (1^1)).

Pursuant to clause 87 (1) 5) of the Employment Contracts Act, the period of notice for termination of an employment contract shall not be less than two weeks' in advance in case of long-term incapacity for work. It is essential to point out that this provision constitutes an extraordinary basis for the termination of an employment contract, which allows the employer to terminate the contract only during the period of incapacity of the employee. Long-term incapacity means an absence of an employee from work for over four months in a row or for a total of over five months during a calendar year; an exception is tuberculosis as a long-term incapacity for eight months in a row or as a total during a calendar year. The said provision cannot be applied in case of incapacity caused by occupational injury. Neither can it be applied for termination of an employment contract during an employee's maternity leave or parental leave. In case of termination of an employment contract under clause 87 (1) 5) of the Employment Contracts Act, the period of notice does not depend on the length of service. In practice, the said provision very rarely constitutes a basis for termination of employment.

Paragraph 5 - Restrictions on deduction from salary

No supplementations to the report submitted previously.

ARTICLE 9 – THE RIGHT TO VOCATIONAL GUIDANCE

Question A

Please give a description of the service - its functions, organisation and operation.

The need for vocational guidance is increasing. This is mainly because people are realising more and more that they need to learn throughout their lives and this concerns all situations they are in and roles they play during their lives. Estonia is now facing the task of both starting the systematic implementation of this understanding from the very early age as well as responding adequately to the consequences arising from this. Combined with the changing needs of the labour market, and the expanding borders, those new trends pose enormous challenges to guidance and counselling practitioners. The latter are furthermore faced with the need to employ modern working tools and techniques, including the ones in the field of ICT. Such web-based guidance and career information means are gradually being developed both in the public as well as in the private sector in Estonia.

The interest of the private sector in career development and guidance issues is growing – expressed both through the increasing number of personnel mediation services as well as through the concerns of human resource departments in companies. Private enterprises are involved in guidance activities through participation in work-shadowing days, career days and related events, company presentations and as in-company training venues.

Guidance and counselling in the education sector

Guidance as part of youth work

The network of the Youth Information and Counselling Centres (YICC) has grown to 24, of which 17 are partly funded by the Ministry of Education and Research. The Ministry established a working group to develop common guidelines of operation that cover the minimum requirements set for all centres funded by the Ministry. At the current moment, the range of service provision, i.e. the number of service providers versus the number of clients in the county (from 1:1180 to 1:18000), the qualification and number of practitioners in each centre (from 1 to 15), the size, conditions, equipment and accessibility of the premises, and the extent and content of activities provided within the region, vary considerably. Most services are free of charge for all young people in the YICCs financed by the Ministry.

Another cross-Estonian national network that services young people as its main target group is the network of open youth centres (OYC). In 2004, it comprises over 150 bases across the country with the aim of continuing this expansion process. The main aim of OYCs is the encouragement of youth participation in society and the provision of facilities for different youth activities outside formal curriculum, work and family. Although not directly involved in career guidance, the OYCs are seen as one of the main partners in disseminating basic career information to young people. Furthermore, they are one of the most potential venues for the YICC to deliver guidance-related outreach services to young people. Examples where an YICC and OYC are situated in the same building (altogether ca. 4-5 cases) provide good cooperation models.

On the initiative of the Estonian Youth Work Centre, the *Teeviit* youth information fair (meaning signpost) is organised every year in December. This fair has become one of the major information events on the national level, comprising ca. 150 exhibitors from among the educational institutions, youth and training related organisations, and attracting ca. 20,000 visitors annually. Similar local fairs take place on a smaller scale across Estonia.

Guidance within educational settings

1. Within general education, career education has formally been provided as a cross-curricular theme in the National Curriculum for Basic and Secondary Schools since 1996. The National Curriculum is the basis for the elaboration of the schools' own curriculum. Recent comprehensive investigation, carried out by the Ministry of Education and Research in 2003, on the state of actual application of career education showed that 83% of the respondent schools had the career development theme included in the subject programmes. Starting from September 1, 2004, a new Act came into force officially stipulating the cross-curricular theme Professional Career and Its Development to be part of the National Curriculum, and to be implemented by all general education schools.

In addition to the cross-curricular theme, designated career lessons have been provided in many schools by teachers with either personal initiative or in some cases with some form of respective short-term training. These lessons are usually provided as elective courses for students in the last years of either basic or upper secondary school.

2. In vocational education establishments, the last couple of years have seen major reform in the network of vocational schools whereby in some counties or towns several schools have been merged into one regional training centre (RTC), which also provides training courses for adults. Some of these new RTCs have introduced the provision of career services to a certain extent – either in the form of specific lessons (e.g. job-seeking skills, etc.) or through testing and feedback, provided by the visiting YICC career counsellor. This cooperation will be developed further.

According to the new National Development Plan for 2004-2006, vocational education institutions are to establish the availability of permanent career services for their students. Although so far perceived as the ones already having made a career choice by embarking on vocational education and training, the effective preparatory work has to be done in order to assist the graduates' transition into the world of work.

3. At the tertiary level, career services are established on universities' initiative; there is no central regulation. At the present time the service is in operation in 5 Estonian universities.

Supportive initiatives

On the national level, the Ministry of Education and Research operates in close cooperation with two organisations in the development of career education and guidance. The Estonian Youth Work Centre, working directly under the Ministry, is primarily concerned with different forms of information and helps to put into practice programmes and projects in the field of youth work. Its tasks include the organisation of the annual youth information fair, the coordination of social-educational youth work, special youth work, local history study projects, international relations, adventure education, etc.

Within the Innove Foundation for Lifelong Learning Development, formerly known as the Foundation VET Reform, the Estonian Euroguidance Centre has been actively involved in the development of the national guidance system since 1998. Being part of the European Euroguidance network, it has contributed to the promotion of mobility, the enhancement of the European dimension in career guidance and the exchange of good practice. With guidance practitioners as its main target group, the centre's main activities include the development of different ICT applications in guidance; the strengthening of cooperation and information exchange within the institutional network in the fields of guidance, education, training, youth work and labour market policy in Estonia; and participation and encouragement of other relevant bodies in European project cooperation. In addition to organising seminars and trainings, Euroguidance Estonia also publishes a variety of handbooks and other printed materials in support of guidance, maintains a resource library, responds to information requests and participates in a range of related working groups and fairs each year. Following Estonia's accession to the EU, Euroguidance Estonia has been entrusted by the Ministry of Education and Research with the implementation of the entire career guidance development section within the European Social Fund programme.

Qualification development

The Tallinn Pedagogical University has applied for the official approval of the two new training programmes in guidance in 2003. One of these programmes is aimed at the currently practising counsellors and the other at students of psychology, education or social sciences who wish to minor in career guidance. Further training programmes and modules in careers to train both those still formally in training as well as already practising subject teachers, class teachers, vocational teachers, career coordinators, youth workers and counsellors, are planned to be elaborated within the European Social Fund framework.

In the context of international cooperation, the guidance system in Estonia has benefited and still benefits from a number of different programmes. One of the first extensive initiatives after the restoration of independence was the Open Estonia Foundation Career Centre project in 1997-1998. Within this framework hundreds of teachers and school psychologists from all across Estonia received some training in career guidance. Since the second half of the 1990s, the Leonardo da Vinci programme has likewise offered many possibilities for guidance practitioners to participate in the exchanges and learn from their European colleagues. In spring 2004, the Estonian practitioners had a possibility to take part in the Academia international career guidance exchange project for the third time. For 2005 37 practitioners from different European countries have visited Estonia within this exchange, while 38 Estonian specialists have had a chance to take part in week-long study visits abroad. In addition to international exchange projects between university career services, a somewhat longer and more comprehensive project was managed by the Tallinn University of Educational Sciences called Adult Guidance, Education and Train the Trainers (AGETT). Including partners from several RTCs and the Estonian Non-Formal Adult Education Association, the main aim of this project was to develop training programmes and modules for future practitioners and specialists in many different related fields.

In addition to the Leonardo da Vinci programme, Estonian activities in the field of career guidance have also been supported through the Phare human resource development projects taking place between 2002 and 2004. A separate component of the development of career guidance services included the elaboration of a services provision model in Estonia, the production of printed materials, the development of web-based interactive guidance tools, the training of counsellors and expert advice on the counsellors' training programmes, as prepared by the Tallinn Pedagogical University. The activities have been implemented by the project teams, including British, Finnish and Estonian experts.

Integrated counselling model for young people

As a new initiative the Ministry of Education and Research started at the end of 2004 development and implementation of an integrated counselling model for young people in Estonia. Young people need a support network of professionals to provide information about opportunities available to them in learning and work, and advice and guidance in making meaningful choices and informed decisions about their future. Young people do not split their needs into career-related, psychological, educational, etc. – they need answers to their questions and a transparent support structure of trustworthy practitioners to help them.

The goals of the initiative are to involve different stakeholders in preparing and implementing an integrated counselling model for young people that ensures sustainable and coherent development of services, and helps to meet both the defined and undefined information needs of young people.

The model should also:

- establish the common elements of different counselling (career, educational, psychological, social, etc.) and information (youth, labour market, etc.) providers
- clearly identify the responsibilities of respective counterparties
- take into account regional and national needs
- follow general developments on the European level
- involve users

Guidance in the Labour Market Sector

Career guidance is regulated by the Labour Market Services and Benefits Act which entered into force on 1 January 2006 (earlier it was regulated with the Employment Service Act). Career guidance means suggesting to the people who are unemployed or have received a notice on termination of their employment an education, professional choice, training or job which complies with their personal characteristics, education and skills. The aim of career guidance is to offer people guidance on the issues of work, vocation, finding a job and shaping their career. Guidance may be individual or group guidance. Access to the services is free. Vocational guidance takes place in the public sector. Career guidance practitioners have information on labour demand prognoses and labour demand in their specific service area. Any training is planned having this demand in mind.

The Self-Service Information System of the Estonian Labour Market Board was launched in 2005 in order to better inform all people of job opportunities.

Question B

Please indicate the measures taken in the field of vocational guidance to promote occupational and social advancement.

In 2004, the EU's structural funds were opened to Estonia. These also included the European Social Fund, the activities of which focus on the retraining of employees and job creation. In using the Fund's resources, the main focus is on support which people need for increasing competitiveness in the labour market but the resources may also help improve the systems and structures to make the labour market function better.

The specific aims of the Fund are combating unemployment, integrating young people into the labour market, creating equal opportunities (incl. the equality of men and women) in the labour market, developing employees' skills, abilities and professional qualification through vocational education, creating new jobs, educational and continuing education system, studies and pilot schemes covering the whole of the EU and related to employment and job creation, linking human resources and science & technology transfer, teacher and instructor education, creating contacts between training centres and businesses, and developing employment-related higher and vocational secondary education.

The main implementation period for the ESF funds is in the second half of the programming period, i.e. in 2006-2008.

Please also see the answer to question A.

Question C

Please indicate the types of information available in the vocational guidance services and the means employed to disseminate this information.

Active steps are taken to promote career guidance and counselling in different media, including information delivery through the Internet, e.g. *Rajaleidja* – Pathfinder (www.rajaleidja.ee). Its goal is to enhance the dissemination of information concerning education, the labour market and career planning in general. The information on the web page has been divided into 4 parts – information for young people, information for guidance practitioners and the like, information for adults and general information. The information for young people includes news, literature and tests, etc., helping to get to know one's personality, information on labour market opportunities, suggestions, career information, success stories, learning opportunities (incl. learning opportunities in Europe), information on administration procedures, information on cultural differences, safety information, etc. Guidance information includes information for guidance practitioners, teachers and parents. The adult information package is still being compiled but it already contains information on unemployment insurance benefits and continuing education opportunities. General information includes ISCO job descriptions. The webpage is currently the main public sector virtual resource centre and a tool for the Estonian career counsellors working in the education and labour market systems. Additional information is also provided on opportunities in Europe, supported by practical advice and further reading materials.

Also almost every YICC has its own homepage. Leaflets, brochures, etc., are produced, and career fairs organised. The counsellors themselves promote their job in every way – through trade associations, regional meetings, etc.

In addition, vocation description folders are available at all Labour Market Board departments and on the Internet.

Please also see the answer to question A.

Question D

Please indicate:

a. the total amount of public expenditure devoted to vocational guidance services during the reference period;

b. the number of specialised staff of the vocational guidance services and their qualifications (teachers, psychologists, administrators, etc.);

c. the number of persons benefiting from vocational guidance broken down by age, sex and educational background;

d. the geographical and institutional distribution of vocational guidance services.

The expenses on vocational guidance are not separated from total expenses on education. The share of vocational guidance unfortunately could not be provided, as the management report includes the total amount of services. The services are provided in three main directions:

- Collection and mediation of information on career planning (introduction of further studying opportunities, organising vocational guidance, etc.);
- Collection and mediation of information on youth and creating forwarding channels (lists, homepages, information days, etc.);
- Guidance (psychological, sexual, health education, etc.).

In 2003, 87 people (incl. part-time employees or employees with contracts for services) worked in the information and related centres of counties. The majority of already working guidance practitioners have a background in youth work, teacher training, social work or psychology.

The number of persons benefiting from vocational guidance in the educational sector broken down by age, sex and educational background is unfortunately not available.

In the labour market system 1.7 million Estonian kroons was allocated for vocational guidance practitioners in 2004 (1.9 million in 2005).

Career guidance is available at all the 15 departments of the Labour Market Board. In 2003, there were 18 guidance practitioners in the labour market system and in 2004, there were 19. In 2006, there are 20 career guidance practitioners, 15 of whom have acquired higher education in psychology, 3 in social work, 1 in adult education and 1 in education. Career guidance practitioners are trained regularly. There are more guidance practitioners in bigger regions in order to ensure the availability of career guidance.

Table 3: The number, gender and age of people who have received vocational guidance in the labour market system.

	Total	Incl.		By age		
		Men	Women	16-24	25-44	45 and older
2003	6345	1907	4438	1571	3223	1551
2004	7701	2489	5212	1517	3984	2200

Source: Labour Market Board.

Table 4: The level of education of people who have received vocational guidance in the labour market system.

	2003	**2004**
Total level I	**1314**	**1782**
Incl. elementary education	173	274
- vocational education without basic education	5	8
- with basic education	1136	1500
Total level II	**3611**	**4305**
Incl. general secondary education	2032	2274
ational secondary education after basic school	876	1132
ational secondary education after secondary school	587	753
ic education with vocational education	106	146
Total level III	**1216**	**1459**
Incl. vocational higher education	278	327
- bachelor's studies	341	399
- master's studies	20	30
- doctorate studies	1	0
- vocational secondary education	576	703

Source: Labour Market Board.

Question E

Please indicate whether equality of access to vocational guidance is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons.

All people have equal possibilities to get vocational guidance.

According to the Youth Work Act, the Ministry of Education and Research coordinates the provision of information for and counselling of young people (subsection 4 (5)). According to this Act, a young person is a natural person up to 26 years of age (subsection 2 (1)). Vocational guidance is provided by the educational system and by various youth and advice centres. More detailed information can be found in the part on youth guidance arrangements under answers to question A. Citizenship has no relevance in youth guidance.

According to the Labour Market Services and Benefits Act, people who are unemployed or have received a notice on termination of their employment and seek work have the right to receive career guidance services. Thus, the groups who potentially need the service most are covered. Estonian legal acts yet lack a specific article which ensures the right of employed people to receive career guidance as a state-guaranteed service.

The Estonian Action Plan for Growth and Jobs includes the objective of developing a complete guidance system which would cover all groups and provide all guidance services, as an ideal, by the year 2007. Thus, guidance should be extended to all people, including the employed, in the near future.

In providing the career guidance service under the Labour Market Services and Benefits Act, equal treatment of citizens of other states is ensured by the section which lists the people who have the right to use employment services and benefits (Section 3). These include:

- permanent residents of Estonia;
- aliens residing in Estonia on the basis of temporary residence permits;
- citizens of the European Union, Swiss Confederation and member states of the European Economic Area who reside in Estonia;
- refugees staying in Estonia;
- employers.

Young people and unemployed people can receive the service free of charge if they turn to a respective state institution for the service. In the case of the unemployed, the respective institution is the Labour Market Board (its local offices) and in the case of young people (aged between 7 and 26), these institutions include county information and advice centres, general education schools, universities and the Labour Market Board.

Private companies offer guidance services with job mediation in order to suggest people a suitable job. The services offered by private companies are not directly connected with the guidance services offered by the state.

The target groups who may use the services offered by the private sector are not limited. In 2006, there are 183 companies who have a valid activity license for the provision of employment services. One-fourth of them have stated that they are engaged in vocational guidance. There are 60 private employment offices and about one-fifth of these have stated that they are engaged in career guidance. There is no overview of how many of them actually provide active vocational or career guidance. This number is estimated to be more modest than the number of companies who have stated that they engage in vocational or career guidance. In many cases this does not mean offering career or vocational guidance in the same extent as those offered by the state, but it is rather an auxiliary service offered during job mediation.

ARTICLE 10 – RIGHT TO VOCATIONAL TRAINING

Paragraph 1 – Promotion of technical and vocational training and granting facilities for access to higher technical and university education

Question A

Please give an account of the functions, organisation, operation and financing of the services designed to provide vocational training for all persons including those with disabilities,[2] *specifying in particular:*

a) the rules laid down by legislation, collective agreements or carried out otherwise;

Adopted acts:

- Study Allowance and Study Loan Act (adopted 7 August 2003);
- Labour Market Services and Benefits Act (adopted 28 September 2005, replaces the former Social Protection of the Unemployed Act and the Employment Services Act).

Adopted regulations of the Government of the Republic:

- The Conditions of and the Procedure for the Partial Deletion of Study Loans Taken by One Parent Having a Child of up to 5 Years Old (No. 279 adopted 23 August 2004);
- The Terms and Conditions of and the Procedure for Repayment of Study Loans (No. 284 adopted 25 August 2004).

Additional information to the previous report:

According to the Vocational Education Institutions Act, vocational secondary education is acquired on the basis of the vocational education standard and a curriculum of vocational secondary education which conforms to the national curricula for vocations and professions (on the basis of basic and secondary education). Persons who have acquired basic education may commence studies in a school which operates on the basis of basic education. Persons who have acquired general or vocational secondary education may commence studies in a school which operates on the basis of secondary education.

Instruction on the basis of basic education according to a curriculum of secondary vocational education is provided in the form of daytime study, evening courses or distance learning. Instruction on the basis of secondary education according to a curriculum of secondary vocational education may be provided in the form of full-time or part-time study.

- Instruction in vocational education institutions which operate on the basis of secondary education may be carried out according to a curriculum of applied higher education which conforms to the Standard of Higher Education.

[2] If your country has accepted Article 15, it is not necessary to describe the services for persons with disabilities here.

Educational institutions which provide general education may provide preliminary vocational training.

- A school shall provide starting from the 7th grade and within the framework of elective subjects, information on vocational skills and knowledge and vocations as part of the national curriculum for basic schools and upper secondary schools, the simplified national curriculum for basic schools (supplementary learning curriculum) or the national curriculum for students with moderate or severe learning disabilities and

- A school may provide preliminary vocational training pursuant to the preliminary vocational training curriculum for students who acquire basic or general secondary education. A school shall also ensure preliminary vocational training according to the national curricula for preliminary vocational training for those students acquiring basic education who are beyond the minimum school-leaving age and acquire basic education in the form of evening courses or distance learning.

According to the Institutions of Professional Higher Education Act, applied higher education institutions provide professional higher education and upon compliance with all the conditions specified in the Act master's studies may also take place there. Professional higher education is study at the first level of higher education during which a student acquires the qualification necessary for employment in a particular profession or continuation of his or her studies in the master's programme.

Studies at an institution of professional higher education may also be undertaken according to a secondary vocational education curriculum and be conducted on the basis of secondary education in the same field of study as professional higher education curricula. At least two-thirds of the pupils and students at an institution of professional higher education have to study according to professional higher education curricula. The Vocational Education Institutions Act is applied to the implementation of the vocational secondary education curriculum in professional higher education institutions.

All persons with secondary education or an equivalent qualification may apply to professional higher education institutions. Studies may be undertaken in the form of full-time study or part-time study. In terms of completing a curriculum in professional higher education or master's studies, an institution of applied higher education may take account of the previous study results and professional experience of the person to the extent of up to 50 percent, unless otherwise provided by an international agreement. An institution of professional higher education may take account of the previous study results of a student in the same institution of professional higher education to an extent of more than 50 percent pursuant to the procedure established by the institution of professional higher education.

The Universities Act provides the procedure for the establishment, merger, division, and termination of the activities of universities, the bases for the activities, limits of autonomy and principles of management of universities, the forms of and conditions for acquiring higher education, the legal status of the assets of universities, the procedure for financing universities, the basic rights and obligations of teaching staff and students, and state supervision over the activities of universities.

A university is a research, development, educational and cultural institution where bachelor's, master's and doctoral studies are carried out in various fields of study. Study based on integrated curricula of bachelor's and master's studies may take place in universities. An educational institution which is part of the structure of a university (a college) may also provide professional higher education depending on the regional demand. The Professional Higher Educational Institutions Act applies to such provision of professional higher education.

All persons with secondary education or foreign qualifications equal thereto have an equal right to compete to be admitted to a university. Studies may be undertaken in the form of full-time, part-time or external studies. In terms of completing a curriculum in bachelor's studies, a university may take account of the previous study results and, in master's and doctoral studies and in study based on the integrated curricula of bachelor's and master's studies, the previous study results and professional experience of the given person to the extent of up to 50 percent, unless otherwise provided by an international agreement. An agreement may be set out in a contract for state-commissioned education concerning fields of study and curricula with regard to the completion of which a university may, in bachelor's studies, take account of the prior professional experience of the given person to the extent of up to 50 percent. A university may take account of the previous study results of a student at the same university to an extent of more than 50 percent pursuant to the procedure established by the council of the university. If, while acquiring higher education, a student who is not proficient in Estonian studies the official language intensively pursuant to the procedure established by the Minister of Education and Research, the nominal period of studies shall be extended by up to one academic year.

The Private School Act applies to all legal persons in private law which provide the possibility to acquire preschool, basic, secondary (incl. vocational) or higher education. The Act also applies to sole proprietors and legal persons in private law who organise continuing vocational training or informal education for adults if the instruction organised thereby lasts longer than 120 hours or six months in a year. The teaching and education arrangements are provided in the special acts on the respective type of educational institutions; the Private Schools Act specifies just a few special requirements for those schools.

According to the Adult Education Act the general coordination of adult education is the responsibility of the Ministry of Education and Research. Training courses for persons seeking work and unemployed persons shall be ordered and paid for by the Ministry of Social Affairs. Local government bodies ensure that persons permanently resident in the territory of the local government have the opportunity to acquire basic and secondary education and shall facilitate the provision of professional training and informal education, if necessary by cooperating with other local governments. Local government bodies support the provision of training to unemployed persons, persons seeking work, other socially underprivileged persons and disabled persons.

The Study Allowance and Study Loan Act provides the bases, conditions and procedure for the grant of study allowances and study loans in order to ensure access to higher education and motivate pupils acquiring secondary vocational education and students acquiring higher education to study full-time and to complete successfully the study programme in the nominal period.

A study loan is a loan guaranteed by the state which is granted to pupils and students in order to cover expenses related to the acquisition of education. Study allowances include the basic allowance, supplementary allowance and doctoral allowance. The basic allowance is a monetary allowance granted to pupils and students (except doctoral students) in order to cover expenses related to the acquisition of education. The supplementary allowance is a supplementary monetary allowance granted to pupils and students (except doctoral students) who meet the requirements for getting the basic allowance in order to cover their accommodation and transportation expenses. The conditions for receiving supplementary allowance is the fact that the pupil's or student's residence is located outside the local government in which the educational institution at which he or she studies is located or outside the bordering local governments.

The respective rules and principles of these acts and other legal acts are further discussed under specific themes.

b) total national resources allocated for vocational education;

Financing of vocational education institutions

State vocational education institutions are financed mainly from the state budget, as well as from local government budgets, receipts from foundations, fee-charging services related to the main activities of the schools, and other funds. State school study costs are covered from the state budget funds meant for the ministry in whose area of government the vocational education institution belongs to and it is done on the basis of the teaching costs of particular specialties and the number of pupils financed in the school. Schools have their own budget. The study costs of a state vocational education institution are covered from the state budget funds within the limits of the number of student places financed by the state during the standard period of study determined in the curriculum, on the basis of the cost of a student place and the factors for the curricula and forms of study.

Studying in a student place which is financed by the state is free for students. People coming to study in Estonia from abroad cover their study costs themselves or these are covered on the basis of an agreement between the two states.

Study costs are calculated by multiplying the study place cost per student by the factors of the broad group of studies (1.0 to 3.6 depending on the broad group of studies), study form (1.0 day, 0.8 evening and 0.3 external studies) and, if necessary, by the factor of teaching pupils with special needs (2.0). In 2003, the study place cost in vocational education institutions was 11,500 kroons, 7270 kroons of which was the salary and social tax expenses of teachers and 950 kroons was spent on acquisition of teaching aids. In 2004, the study place cost increased to 13,600 kroons (incl. 8145 kroons for the salary and social tax expenses of teachers and 950 kroons for acquisition of teaching aids).

The financing of the private vocational education system was covered in the previous report.

The following table shows the state budget expenses on state and private vocational education institutions.

Table 5: Public sector educational expenses on vocational education in the years 2002 to 2004.

	2002	2003	2004*
Total (mln EEK)	551.9	590.0	645.0
% of public sector budget	1.33	1.30	1.16
& of public sector educational expenses	8.3	8.1	8.1
% of the GDP	0.47	0.47	0.47

* preliminary data on the basis of the budgetary discharge

Source: Ministry of Education and Research.

Financing of higher education

Public financing of higher education has increased within the recent ten years by 3.8 times. Financing of universities accounted for about 60 percent of all the financing for higher education in 2004 (75 percent in 1995) and it has increased by 3.1 times. Financing of applied higher education institutions (16 percent of the Estonian higher education funding) has increased by 4 times. Financing of professional higher education provided in vocational education institutions has increased by 3.1 times since 1999. These increases are not just due to increases in study costs but also due to the influence of the study allowance system.

Table 6: Public sector educational expenses on higher education in the years 2002 to 2004.

	2002	2003	2004*
Total (million EEK)	1288.1	1373.6	1592.4
Share of GDP (%)	1.1	1.1	1.2
Share of total public sector budget (%)	3.1	3.0	2.9
Share of total public sector educational expenses (%)	19.4	18.8	20.1

Source: Ministry of Education and Research.

Institutions of professional higher education

The provision of education by institutions of professional higher education is financed from the state budget to the extent of state-commissioned education.

The Ministry of Education and Research finances student places according to the number of graduates who have acquired professional higher education specified in the state-commissioned education directive. Student places are financed to the extent of the calculated cost of a student place in professional higher education during the standard period of study for acquiring professional higher education. A curriculum of professional higher education which takes account of the previous study results and professional experience of a person in the field of study which corresponds to the curriculum may be financed for a period which is shorter than the standard period of study for acquiring professional higher education if so agreed in the state-commissioned education directive. If, after the end of the standard period of study for acquiring professional higher education or the standard period of master's study, the number of persons who have acquired professional higher education or graduates with a master's degree is less than the number specified in the state-commissioned education directive, the Ministry of Education and Research has the right, when next determining state-commissioned education, to decrease the financing of state-commissioned education by deducting the part of the expenditure which was made from the state budget for state-commissioned education which was not provided.

In order to perform the functions arising from the law, an institution of professional higher education has the right to provide services related to its main activities for a charge (continuing education, external study, contractual development work, professional consultations, etc.) to the extent and pursuant to the procedure provided for in the statutes of the institution of professional higher education.

A balanced budget has to be prepared concerning the revenue and expenditure of an institution of professional higher education and this budget has to be approved by the rector.

Universities

The revenue of a university is comprised of money allocated from the state budget, money received to reimburse study costs, revenue from the provision of services related to the main activities for a charge, revenue from research and development activities and other income. The cost of student places at a university is covered from the state budget to the extent of state-commissioned education. Other expenses are covered from the state budget, the reimbursement of study costs, services related to the main activities of the university provided for a charge, and other income.

State-commissioned education means the number of graduates by academic levels in a broad group of studies or, if necessary, in a field of study or as per curriculum, as determined by a contract under public law between the Ministry of Education and Research and a university, which the university is required to ensure by the end of the standard period of study and which the Ministry of Education and Research is required to finance, during the standard period of study, from the state budget through the budget of the Ministry of Education and Research. The provision of state-commissioned education at a university is determined by the Ministry of Education and Research based on the predicted need for specialists with higher education in the labour market, on the proposals of ministries, local government associations, registered professional associations and universities, and on the resources designated for state-commissioned education in the state budget.

The calculated cost of a student place, which is formed on the basis of state-commissioned education, is obtained by multiplying the basic cost of a student place by the factor of the broad group of studies or, if necessary, for the field of study or, as an exception, for the curriculum. The basic cost of a student place, which is formed on the basis of state-commissioned education, and the factors of the broad group of studies or, if necessary, for the field of study or, as an exception, for the curriculum is established by the Government of the Republic.

The Ministry of Education and Research finances student places according to the number of graduates with a master's degree specified in the contract for state-commissioned education. Student places are financed to the extent of the calculated cost of a student place in master's study from the beginning of the standard period of bachelor's study until the end of the standard period of master's study, but not for longer than five years. The Ministry of Education and Research finances the number of student places in study based on the integrated curricula of bachelor's and master's study to the extent of the calculated cost of student places in such study until the end of the standard period of study.

If, after the end of the standard period of study based on the integrated curricula of bachelor's and master's study, the number of persons who graduate from the university having completed such study is less than the number of graduates specified in the contract for state-commissioned education, the Ministry of Education and Research has the right, when next determining state-commissioned education, to decrease the financing of state-commissioned education by deducting that part of the expenditure which was made from the state budget for state-commissioned education which was not provided.

In addition, the Ministry of Education and Research covers the costs of doctoral study in equal parts in the first two academic years to the extent of 60 percent of the amount which is obtained by multiplying the number of graduates with a doctor's degree as specified in the contract for state-commissioned education by the basic cost of a student place in doctoral study. After the end of the standard period of doctoral study, the Ministry of Education and Research covers the costs of doctoral study to the extent of 40 percent of the amount which is obtained by multiplying the number of doctor's degrees defended within that term (but not more than the total number of graduates with a doctoral level degree as specified in the contract for state-commissioned education) by the basic cost of a student place in doctoral study.

A balanced budget must be prepared concerning all revenue and expenditure of a university and it has to be approved by the board of the university.

Private universities

The costs of student places at private institutions of higher education and private universities are covered from the state budget to the extent of state-commissioned education on the basis and pursuant to the procedure established by legislation for state institutions of professional higher education and universities in public law. A private institution of higher education or a private university may apply for state-commissioned education for student places which are created on the basis of a positively accredited curriculum. A private institution of higher education (private university) may receive subsidies for specific purposes from the state budget and a local government budget. Funds received from state-commissioned education may only be used at a private school for the provision of education, for investment and for covering infrastructure expenses. The size of the tuition fee is determined by the owner of the private school and that amount is not changed during an academic year. The size of the tuition fee may be increased by up to 10 percent between two academic years unless otherwise provided by the contract conducted between the private school and the student.

c) the number of vocational and technical training institutions (at elementary and advanced levels);

Vocational education institutions

As the system consisting of many small schools is ineffective both in economic and educational terms, in 1997, the reorganisation of the state vocational education institutions began. During this reorganisation, smaller vocational education institutions are merged and regional training centres developed. During the years 1993 to 2004, the number of vocational education institutions owned by the state has decreased from 77 to 50. At the same time, the number of privately or municipally owned vocational education institutions has increased.

The reorganisation of the network of state-owned vocational education institutions continued in 2003 and 2004 when vocational education institutions were merged on 7 occasions, 1 vocational education institution became municipally owned and 1 was closed.

In the autumn of 2004, the total number of vocational education institutions in Estonia was 68, of which 47 were administered by the Ministry of Education and Research. 3 vocational education institutions were in other ministries' fields of administration, 3 were in municipal ownership and 15 in private ownership. On 1 September 2005, the total number of vocational education institutions in Estonia was 60, of which 41 were state-owned, 3 municipally owned and 16 privately owned institutions.

Table 7: The number of vocational education institutions.

	2002/03	**2003/04**	**2004/05**
Vocational education institutions	88	73	68
Incl. state schools	57	53	50*
Private and municipal schools	31	20	18

* State schools also include 3 prison schools.

Source: Ministry of Education and Research.

The reconstruction process of the network of vocational education institutions will continue in the following years. On 17 February 2005, the Government of the Republic approved "The Plan for the Reorganisation of State-Owned Vocational Education Institutions in the Years 2005 to 2008" which specifies the objectives and principles for further shaping of the school network.

The majority of Estonian vocational education institutions provide vocational education on the basis of both basic and general secondary education; 21 vocational education institutions provide training only on the basis of secondary education and some of them also provide higher level education (from 1995/1996 to 1998/1999 diploma studies, from 1999/2000 to 2001/2002 vocational higher education and since 2002/2003 professional higher education).

Vocational education institutions are rather small. 59 percent of schools teach less than 300 pupils, which makes about 15 percent of all pupils in the vocational secondary education system. 21 percent of schools teach 700 to 2800 pupils, which makes 62 percent of all pupils in the vocational secondary education system. The remaining 20 percent of vocational education institutions are of intermediate size.

Educational institutions providing education in accordance with higher education curricula

The number of educational institutions providing higher education increased in Estonia until 2001. The main reason was the establishment of private educational institutions and implementation of professional higher education curricula in vocational education institutions. Although the number of private professional higher education institutions continued to increase, the organisation of the higher education system by accrediting and stricter quality requirements has decreased the number of educational institutions, especially private universities and vocational education institutions, since 2002.

One measure which organised the network of private higher educational establishments during the reference period was the amendment to the Private Schools Act which entered into force on 5 July 2004 and which increased the required owner's equity of private universities and private higher education institutions. According to the Private Schools Act a public limited company whose share capital is at least ten million kroons, a private limited company whose share capital is at least ten million kroons or a foundation or non-profit association whose equity is at least ten million kroons may operate as a manager of a university. A public limited company, private limited company, foundation or non-profit-association whose equity is at least six million kroons may be the manager of a higher educational establishment. These provisions will be applied from 1 January 2007 to private school managers who have already received education licenses or positive accreditation.

In the academic year 2004/2005 in Estonia there operated 46 educational institutions where was possible to study according to the curricula of higher education: 6 public universities and 6 private universities; 7 state and 17 private professional higher education institutions; and 9 state and 1 private vocational education institution.

These educational institutions vary greatly in the number of pupils/students. The four bigger public universities taught 39,805 students, i.e. about 59% of the total number of students, in 2004. However, the number of educational institutions with at least a thousand students increased to 13 by 2003 (in 2000, the number was just 8).

Table 8: The number of educational institutions where it is possible to study according to higher education curricula in Estonia in the academic years 2002/2003 to 2004/2005.

Types of educational institutions	2002/2003	2003/2004	2004/2005
Public universities	6	6	6
State-owned professional higher education institutions	7	7	7
State-owned vocational education institutions	9	9	9
Private universities	8	6	6
Private professional higher education institutions	14	18	17
Private vocational education institutions	5	1	1
TOTAL	49	47	46

Source: Statistical Office of Estonia, Ministry of Education and Research.

d) the number of teachers in such schools in the last school year;

In 2004, the total number of teachers in vocational education institutions was 2739, of which 1550 (56.6%) were teachers of particular vocations and 1189 (43.4%) were teachers of general and specialised subjects. There are approximately 11 pupils for one teacher's position in Estonia.

According to the records of 2004, 32 percent of the teachers in vocational education institutions were men. 45.3 percent of the teachers of particular vocations are older than 50.

In 2003/2004, there were 6309 persons teaching in universities and professional higher education institutions; 4237 of these people had an employment contract. 2072 lecturers had a contract for services (their main job was somewhere else or they were pensioners or sole proprietors, etc.).

Table 9: Lecturers in universities and professional higher education institutions in the academic year 2003/2004.

Lecturers' level of education / Number of lecturers with employment contract	Doctor's degree		Master's degree		Higher education		No higher education		TOTAL	
	W+M	incl. W	W+M	incl. W	W+M	incl. W	W+M	incl. W	W+M	incl. W
Full-time	999	308	671	399	696	436	21	1	2387	1144
Part-time	621	205	556	321	648	403	25	11	1850	940
Number of lecturers with contract for services	284	95	556	283	1185	586	47	10	2072	974
Full-time equivalent for lecturers with contract for services (according to work load)	89,3	33,2	195,8	98,1	199,0	91,5	11,0	3,5	495,1	226,4

Source: Estonian Statistical Office.

e) the number of pupils, full-time and part-time in such schools in the last school year.

The number of pupils in vocational education institutions

While in the academic years 2002/2003 and 2003/2004 the total number of pupils acquiring vocational education remained on the same level, it increased by 1700 pupils in 2004/2005 because the number of pupils admitted to vocational education institutions after basic school increased. The increase can be attributed to the demographic characteristics of Estonia as the young people who were born in 1987 and 1988, when the birth rate was at its peak, have acquired basic education.

In the academic year 2004/2005, there were 13,617 pupils who started studying according to vocational secondary education curricula, 7616 of them on the basis of basic education and 6001 of them on the basis of secondary education. 12,753 started daytime studies, 771 distance learning and 93 evening courses. There were 2484 pupils who started acquiring higher education in vocational education institutions.

In the academic year 2004/2005, the average competition in the vocational education institutions providing education on the basis of basic and higher education was respectively 1.34 and 1.4 applications per place (respectively 2021 and 2512 applications were refused).

In the academic year 2004/2005, the total number of pupils acquiring vocational secondary education was 29,915, of these 19,153 (33.4% girls) on the basis of basic education and 10,762 (62% girls) on the basis of secondary education.

Table 10: The number of pupils on the various levels of the vocational education system in the academic years 2002/2003 to 2004/2005.

	2002/03	2003/04	2004/05
Vocational secondary education on the basis of basic education	16,306	17,130	18,886
Vocational secondary education on the basis of secondary education	11,551	10,787	10,762
Previous education not defined (prison schools)	155	264	267
Vocational secondary or technical education whose prerequisite is basic education	82	2	-
Vocational secondary or technical education whose prerequisite is secondary education	1	-	-
TOTAL	28,095	28,183	29,915

Source: Ministry of Education and Research.

Since 2002, the number of graduates from vocational education institutions has been decreasing because since the academic year 1999/2000, there have been no students admitted to vocational secondary education which is provided on the basis of secondary education. It has been replaced with vocational and professional higher education. The percentage of drop-outs which has increased a bit affects the number of graduates as well. In the academic year 2003/2004, there were 22 percent of people studying according to the vocational secondary education curricula who discontinued their acquisition of vocational secondary education provided on the basis on basic education and 15 percent of such drop-outs who had previously acquired secondary education. On average, 18 percent of young people who start acquiring vocational secondary education do not receive the respective diploma.

Table 11: The number of graduates on the various levels of the vocational education system in the academic year.

	2003	2004
Vocational secondary education on the basis of basic education	3526	3026
Vocational secondary education on the basis of secondary education	4360	3775
Previous education not defined (prison schools)	152	248
Vocational secondary or technical education whose prerequisite is basic education	43	
TOTAL	8081	7049

Source: Ministry of Education and Research.

Table 12: The number and percentage of graduates from vocational education institutions (second level vocational education) by their gender in the academic year 2003/2004.

	TOTAL	Women	Men
TOTAL	7049	3369	3680
%	100	47.8	52.2

Source: Ministry of Education and Research.

A daytime study is the prevailing form of study in vocational education; only 6.4 percent of pupils attend evening classes or use distance learning.

Table 13: The number and percentage of full-time and part-time pupils in the academic years 2002/2003 and 2004/2005 (second level vocational education).

Form of study	2002/03		2003/04	
	Number	%	Number	%
Daytime studies	25,536	90.9	25,814	91.6
Evening courses	343	1.2	189	0.7
Distance learning	2216	7.9	2180	7.7
TOTAL	28,095	100	28,183	100

Source: Ministry of Education and Research.

The number of students acquiring their education according to higher education curricula

There were 67,760 students acquiring their education according to higher education curricula[3] on 1 October 2004. The number of students not in state-commissioned student places has been constantly increasing, faster than the number of those in state-commissioned places, and at the beginning of the academic year 2004/2005, it reached 35,000, which is 53 percent of the total number of students.

In the four biggest public universities – University of Tartu, Tallinn Technical University, Tallinn Pedagogical University (Tallinn University since 2005), Estonian Agricultural University (Estonian University of Life Sciences since 27 November 2005) – there were 39,805 students on 1 October 2004, i.e. about 59 percent of all students, and the studies of 20,800 of those, i.e. 52 percent, were financed from the state budget. 53 percent of all the students whose studies are financed from the state budget are studying in these four public universities. 18 percent of non-state-commissioned places are in private universities and 19 percent in private professional higher education institutions.

While in 1993, the two genders were equally represented in higher education (51 percent of women), in 2004, the percentage of women students was 71. The percentage of women students has been constantly increasing in academic higher education. Gender disparities are smaller in doctoral studies where the number of women outweighed the number of men for the first time in the academic year 1997/1998.

[3] Higher education includes the following: vocational higher education studies, professional higher education studies, diploma studies, bachelor's studies, master's studies, doctoral studies, and internship, one-year teacher training, medical and dentistry training, integrated bachelor's and master's studies and residency (admission until 2000/2001).

Table 13: The number of graduates from higher education institutions by language of instruction and gender in the academic years 2002/2003 and 2003/2004.

	2002/2003			2003/2004		
	TOTAL	**Women**	**Men**	**TOTAL**	**Women**	**Men**
TOTAL	9877	6868	3009	10,235	7328	2907
Estonian	8822	6146	2676	9231	6636	2595
Russian	830	591	239	828	584	244
English	225	131	94	176	108	68

Source: Estonian Statistical Office.

Table 14: The number of students by forms of study in the academic years 2002/2003-2004/2005.

	2002/2003	**2003/2004**	**2004/2005**
Full-time studies	51,399	54,018	54,552
Distance learning	12,226	11,641	13,208
TOTAL	63,625	65,659	67,760

Source: Estonian Statistical Office.

Question B

Please indicate how the arrangements for vocational training are provided with reference to the various types of vocational activity and, if data are available, age and sex.

Vocational education

In our previous report we mentioned that in the case of vocational secondary education on the basis of basic education the training lasts for at least 3 years, i.e. 120 study weeks (ISCED 3/3B), and on the basis of general secondary education, the training lasts for 1 to 2.5 years, i.e. 40 to 100 study weeks (ISCED 3/4B). The conclusions mistakenly mention that vocational training in the vocational education institutions is provided during the last three years of secondary education. Furthermore, the upper secondary school does not last six years but three.

There are 14 fields of study in vocational education institutions (39 groups of curricula) within which it is possible to choose a narrower specialty. In the academic year 2004/2005, it was possible to study according to 215 curricula, 121 of those required basic and 138 required general secondary education. 46 curricula of the 215 allow for studying on the basis of both basic and general secondary education.

Table 15: Pupils in vocational education institutions by fields of training in the academic year 2004/2005.

	Number	**%**
Humanities and arts	1038	3.5
Natural and exact sciences	1679	5.6
Agriculture	1687	5.6
Social sciences, business and law	3742	12.5
Service	6708	22.4
Technology, production and construction	14,319	47.9
Healthcare and welfare	742	2.5
TOTAL	29,915	100

Source: Ministry of Education and Research.

Table 16: Pupils by field of study and gender at the beginning of the academic year 2004/2005.

	ISCED code	Number of pupils	Percentage of the field of study	Incl. women	Percentage of women
Arts	21	1026	3	642	62.6
Humanities	22	12	0	7	58.3
Business and administration	34	3742	13	3128	83.6
Computer sciences	48	1679	6	604	36.0
Technology	52	7371	25	545	7.4
Production and processing	54	3524	12	2177	61.8
Architecture and construction	58	3424	11	167	4.9
Agriculture, forestry and fishery	62	1687	6	706	41.8
Health	72	475	2	430	90.5
Social services	76	267	1	261	97.8
Personal services	81	5322	18	3707	69.7
Transportation services	84	601	2	426	70.9
Environmental protection	85	199	1	134	67,3
Security	86	586	2	146	24.9
TOTAL		29,915	100	13,080	43.7

Source: Ministry of Education and Research.

Higher education

The Estonian higher education system has two branches – academic and applied higher education. Higher education can be acquired in universities and professional higher education institutions, plus some vocational education institutions. On the basis of their ownership, educational establishments fall into state-owned, public and private establishments.

Since the academic year 2002/2003, the academic branch of the system of higher education has had two levels like the Anglo-Saxon bachelor-master model. The first level is bachelor's studies the aim of which is deepening of general education knowledge, acquisition of the basic knowledge and skills necessary for the specialty in order to continue in master's studies and start working. The second level is master's studies during which a student improves his or her knowledge and skills in his or her specialty and acquires the knowledge and skills necessary for independent work and doctoral studies. The main purpose of master's studies is to train the student into a specialist who has deep knowledge of his/her specialty. In some specialties, the bachelor's and master's studies are united into one. The highest level of academic studies is doctorate studies during which a student acquires the knowledge and skills necessary for independent research, development or professional creative activity.

Applied higher education is the first level higher education since the academic year 2002/2003. It corresponds to bachelor's studies in the academic branch and its aim is acquisition of the qualifications necessary for working in a certain vocation or continuing the studies at the master's level.

The broad groups of studies and fields of study in the higher education are specified in the Standard of Higher Education which was approved by the Government of the Republic Regulation of 13 August 2002.

In the academic year 2004/2005, the biggest broad group of studies consists of social sciences, business and law – 38 percent. Next come technology, production and construction (12%), humanities and arts (11%) and natural and exact sciences (10%). The rest of the broad groups of study account less than 10 percent.

Major changes in these percentages took place from 1993 to 1998; later changes can be considered marginal. The biggest increase during these years occurred in social sciences, business and law. The share of agriculture, technology, production and construction decreased.

During the years 2002 to 2005, no changes have occurred in the percentages of social sciences, business and law. In agriculture, technology, production and construction, however, the total number of students has increased during the years 2002 to 2005. The years 2002 to 2005 have seen a decrease in the percentage of education, health and welfare students in the total number of students.

Table 17: The number of students acquiring higher education by broad groups of study in the academic years 2002/2003 to 2004/2005.

	2002/2003	2003/2004	2004/2005
Education	6298	6081	5476
Humanities and arts	7305	7362	7682
Social sciences, business and law	24,029	25,031	25,786
Natural and exact sciences	6399	6580	7025
Technology, production and construction	7357	7859	8269
Agriculture	1586	1638	1762
Healthcare and welfare	6193	6028	5954
Service	4458	5080	5806
TOTAL	63,625	65,659	67,760

Source: Estonian Statistical Office.

While in 1993, men prevailed in half of the broad groups of study, in the academic year 2004/2005 the situation remained the same only in two so-called “male” broad groups of study, i.e. natural and exact sciences and technology, production and construction. In two broad groups of study – agriculture and service – the balance between the genders still remained. Women prevail greatly in education, social sciences, business and law and healthcare and welfare.

Table 18: Students by fields of study and gender at the beginning of the academic year 2004/2005.

Name of the field of study/broad group of studies	Field of study code	TOTAL	Incl.	
			Women	Men
1. Education		**5476**	**4889**	**587**
Teacher training and education	14	5476	4889	587
2. Humanities and arts		**7682**	**5845**	**1837**
Arts	21	2989	2180	809
Humanities	22	4693	3665	1028
3. Social sciences, business and law		**25,786**	**16,872**	**8914**
Social and behavioural sciences	31	5140	3700	1440
Media and communication	32	1122	908	214
Business and administration	34	15,502	9820	5682
Law	38	4022	2444	1578
4. Natural and exact sciences		**7025**	**2723**	**4302**
Biological sciences	42	1195	874	321
Physical sciences	44	1333	630	703
Mathematics and statistics	46	431	326	105
Computer sciences	48	4066	893	3173
5. Technology, production and construction		**8269**	**2270**	**5999**

Technology	52	4061	722	3339
Production and processing	54	1431	725	706
Architecture and construction	58	2777	823	1954
6. Agriculture		**1762**	**909**	**853**
Agriculture, forestry and fishery	62	1491	676	815
Veterinary science	64	271	233	38
7. Healthcare and welfare		**5954**	**5279**	**675**
Health	72	3999	3517	482
Social services	76	1955	1762	193
8. Service		**5806**	**2890**	**2916**
Personal services	81	1871	1243	628
Transportation services	84	1532	449	1083
Environmental protection	85	1477	984	493
Security	86	926	214	712
TOTAL		**67,760**	**41,677**	**26,083**

Source: Estonian Statistical Office.

The number of pupils and students by types of education and age

The percentage of 16 to 20-year-olds studying according to higher education curricula is small as the general requirement for that is secondary education. The number of 16 to 20-year old students studying according to higher education curricula has decreased constantly during the recent years. 19 to 21-year-olds prevail in studies according to higher education curricula when compared to other types of education.

During the recent 10 years, the age of students studying according to higher education curricula has increased. The obvious reason for this is the extension of general secondary education from 11 to 12 years and increasing the age when children have to go to school from 6 to 7 years of age in the beginning of 1990s wherefore many young people graduate secondary school at 19 years of age.

There is another tendency as well – the percentage of 25-year old and older students has increased. This cannot be attributed just to the increase in the number of students in master's and doctoral studies. It was not possible for everybody who wanted that to start studies in the 90s when the economic situation was difficult and people postponed these as can be seen from the fact that in 1993 there were just 8 percent of students who were 30 or older but that number increased to 20 percent by 2003. Women prevail in this age group.

Table 19: The number of 16 to 18-year-olds by types of education in the academic years 2002/2003 to 2004/2005*.

	2002/2003	**2003/2004**	**2004/2005**
Basic school	6259	5740	5342
Upper secondary school	33,204	32,347	33,698
Vocational education after basic education			14,183
Vocational education after general secondary education			441
Higher education	3950	2895	2177
TOTAL 16 to 18-year-olds			55,841

• Some data is missing for the academic years 2002/2003 and 2003/2004.

Source: Estonian Statistical Office.

Table 20: The number of 19 to 21-year-olds by types of education in the academic years 2002/2003 to 2004/2005.

	2002/2003	2003/2004	2004/2005
Basic school	341	38*	130
Upper secondary school	2179	571*	922
Vocational education after basic education			4070
Vocational education after general secondary education			4730
Higher education	23,010	23,637	24,592
TOTAL 19 to 21-year-olds			34,444

* No data on 21-year-olds.

Source: Estonian Statistical Office

Question C

Please state what measures are taken to ensure a close link between vocational guidance and training on the one hand and employment on the other.[4]

See article 9.

Question D

Please indicate the methods adopted by your government with a view to providing access to higher technical education and university education on the basis of the sole criterion of individual aptitude.

All people who have acquired secondary education in Estonia or equivalent education abroad are equally entitled to apply to universities, applied higher education institutions or vocational education institutions (hereafter "educational institutions").

[4] If your country has accepted Article 9, it is not necessary to describe these measures here.

The general prerequisite for admission into educational institutions providing higher education is secondary education as proven by the respective document – an upper secondary school graduation certificate, a certificate on the acquisition of vocational secondary education, the respective certificates and diplomas which were valid in the previous systems and qualifications which make it possible to be admitted to educational institutions providing higher education abroad. In additions to general prerequisites, institutions of higher education may set special requirements for admission. These may include entrance exams, results of state exams, tests in the specialty, interview, etc.

Student places formed on the basis of state-commissioned education are filled on the basis of a competition. The maximum number of student places, not financed from the state budget, is approved by the board of each higher education institution.

The admission requirements and procedure of a university are adopted by the council of the university and approved by the Minister of Education and Research. Student places formed on the basis of state-commissioned education are initially filled pursuant to the procedure established by the council of the university and according to the results of the entrance examinations taken by persons who wish to study according to the given curriculum. As a rule, state exams are taken into account; however, certain specialties require additional tests. The Open University of the University of Tartu (non-state commissioned student places) usually does not require any entrance exams. The Open University provides education as flexibly as possible taking into account the needs of students.

The conditions of and procedure for admitting/dismissing persons to/from professional higher education institutions is established by a regulation of the Minister of Education and Research. State exams must be taken into account but the board of each professional higher education institution has the right to require entrance exams or tests to be taken in order to be admitted to the school.

The students admitted to vocational education institutions to study according to applied higher education curricula are subject to the conditions of and procedure for admitting/dismissing persons to/from professional higher education institutions.

In certain cases, educational institutions regard the average grade of the upper secondary school graduation certificate and golden or silver graduation medal as a factor facilitating admission or freeing such persons from the obligation to take entrance exams. In addition, educational institutions may organise entrance examinations or interviews and tests with an aim to determine the persons' suitability for the specific profession.

Earlier work or study experience may be considered as a factor which facilitates admission but first and foremost, it will be taken into account during the studies. On 10 march 2003, the amendment to the Universities Act took effect, according to which a university may, in terms of completing a curriculum in bachelor's studies, take account of the previous study results and, in master's and doctoral studies and in study based on the integrated curricula of bachelor's and master's studies, the previous study results and professional experience of the given person to the extent of up to 50 percent. An agreement may be set out in a contract for state-commissioned education concerning fields of study and curricula with regard to the completion of which a university may, in bachelor's studies, take account of the prior professional experience of the given person to the extent of up to 50 percent. A university may take account of the previous study results of a student at the same university to an extent of more than 50 percent and pursuant to the procedure established by the council of the university. Universities have the legal obligation to establish the conditions and procedure for taking account of the previous study results and professional experience of students.

A similar amendment to the Professional Higher Education Act took effect on 10 March 2003 according to which earlier study results and prior professional experience may be taken into account to the extent of up to 50 percent in completing the curriculum of a professional higher education institution on the levels of applied higher education and master's studies. An institution of professional higher education may take account of the previous study results and professional experience of a student in health-related studies or the previous study results of the student in the same institution of professional higher education to an extent of more than 50 percent and pursuant to the procedure established by the board of the institution of professional higher education.

Persons whose competition results cannot allow them to be admitted to state-commissioned student places have the right to compete for admission to student places which are not financed from the state budget if their results allow them to be admitted to the limited number of such places.

Persons who start their studies in non-state-commissioned student places in institutions of professional higher education or vocational education compensate for their study costs on the basis of the calculated cost of one state-commissioned student place.

All students, both these who study in state-commissioned student places and those who have to pay for their studies, have the right to receive the study allowance and the study loan.

Pupils and students (except doctoral students) have the right to apply for basic allowance if they are Estonian citizens, or live in Estonia on the basis of permanent or temporary residence permits, acquire higher education according to a curriculum which foresees student places formed on the basis of state commissioned education and acquire higher education in full-time study. Students have the right to apply for supplementary allowance if their residence is located outside the local government in which the educational institution at which they study is located or outside the bordering local governments. Doctoral students have the right to apply for doctoral allowance if they are Estonian citizens, or live in Estonia on the basis of permanent or temporary residence permits, attend public or private university, acquire higher education according to a curriculum which foresees student places formed on the basis of state commissioned education and have not exceeded the nominal period of studies according to the curriculum.

The funds for study allowances are earmarked in the budget of the Ministry of Education and Research; the payments are made through educational institutions. Educational institutions establish the conditions and procedure for applying for and the grant and payment of study allowances by 1 September each year and inform pupils, students and the Ministry of Education and Research thereof.

The number of students has increased by more than two and a half times in the recent ten years (from 1993 to 2003) and it reached 67,760 by the academic year 2004/2005. While the number of students attending public universities has doubled, the number of students attending private educational institutions has increased by seven times and the number of students attending state-owned educational institutions has increased by six times.

The number of students not in state-commissioned student places has been constantly increasing, faster than the number of those in state-commissioned places, and at the beginning of the academic year 2004/2005, it reached 35,000, which is 53 percent of the total number of students.

Table 21: The ratio of state-commissioned and non-state-commissioned student places in Estonian institutions of higher education by years.

Academic year	State-commissioned student places	Non-state-commissioned student places	Percentage of non-state-commissioned student places
2002/2003	32,022	31,603	49.7
2003/2004	31,576	34,083	51.9
2004/2005	31,932	35,828	52.9

Source: Estonian Statistical Office.

In the earlier years the admission increased in professional higher education, compared to academic higher education, but in the academic year 2004/2005, the number of state-commissioned student places increased in academic higher education and decreased in professional higher education.

Students of social sciences, business and law accounted for 38 percent of the total number of students in 2004. The percentage of state-commissioned student places is significantly smaller in this broad group of studies than in others which is natural because such graduates go to work mainly in the private sector. The number of state-commissioned student places in this broad group of studies fell the most – by twice – within six years (from 1997 to 2003). In 2003, the percentage of state commissioned education in this broad field of studies was the smallest in all fields of study: 28.3 percent in social and behavioural sciences, 37.3 percent in media and communication, 15.9 percent in business and administration and 12.4 percent in law. In addition to the above, there is just one more field of study where the percentage of state-commissioned student places remains below 50 percent (35%) and this is personal services in the services broad group of studies which also is focussed on the private sector.

Table 22: The number of state-commissioned student places in academic and professional higher education by fields of study in the academic years 2003/2004 to 2004/2005.

Field of study code (ISCED97)	Field of study name	SC SP in 3+2 master's studies, etc.		SC SP in professional higher education	
		2003	2004	2003	2004
	Education	**598**	**579**	**70**	**70**
14	Teacher training and education	598	579	70	70
	Humanities and arts	**219**	**227**	**92**	**92**
21	Arts	103	109	92	92
22	Humanities	116	118		
	Social sciences, business and law	**200**	**197**	**453**	**323**
31	Social and behavioural sciences	83	83		
32	Media and communication	17	16	40	60
34	Business and administration	76	74	373	223
38	Law	24	24	40	40
	Natural and exact sciences	**433**	**477**	**226**	**226**
42	Biological sciences	85	93		
44	Physical sciences	75	77	36	36
46	Mathematics and statistics	17	18		

48	Computer sciences	256	289	190	190
	Technology, production and construction	**538**	**589**	**677**	**689**
52	Technology	299	338	339	352
54	Production and processing	67	73	183	182
58	Architecture and construction	172	178	155	155
	Agriculture	**105**	**105**		**20**
62	Agriculture, forestry and fishery	80	80		20
64	Veterinary science	25	25		
	Healthcare and welfare	**184**	**203**	**910**	**891**
72	Health	171	183	611	652
76	Social services	13	20	299	239
	Services	**113**	**121**	**325**	**312**
81	Personal services	15	15	55	60
84	Transportation services	13	13	179	161
85	Environmental protection	85	93	91	91
	TOTAL	**2390**	**2498**	**2753**	**2623**

Source: Ministry of Education and Research.

Question E

Please indicate whether equality of access to vocational training opportunities is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled persons.

Vocational education

Foreigners who have a valid residence permit and are in the Republic of Estonia legally may start their studies in Estonian vocational education institutions. Admission of persons who do not live in Estonia permanently and want to attend a professional higher education institution or vocational education institution on the basis of foreign studies is based on foreign contracts as is the coverage of their study costs.

Based on an application of the educational institution, foreigners receive a temporary residence permit for studying which is valid for up to one year and which can be extended to up to six years. Foreigners are given a residence permit for studying if they have constant legal income for living here and a place to live here. They have to register their place of residence in the Estonian population register within one month of their arrival or stay in Estonia. Foreigners have to have insurance which guarantees that any medical costs resulting from illness or injury are covered during the time period for which they apply for a residence permit.

Higher education

Citizens of other states may apply for state-commissioned study places on the same bases as citizens of the Republic of Estonia. All people who have acquired secondary education in Estonia or equivalent education abroad are equally entitled to apply to universities, professional higher education institutions or vocational education institutions.

Based on an application of the educational institution, foreigners receive a temporary residence permit for studying. Foreigners may receive a temporary residence permit for studying in Estonian education institutions; this permit is valid for up to one year but it can be extended to up to six years.

If, while acquiring higher education, students who are not proficient in Estonian attend intensive courses of Estonian, the nominal period of studies is extended by up to one academic year. Intensive language courses for students studying in state-commissioned student places are financed with state budget resources earmarked for state-commissioned education. In the academic year 2004/2005, there were 203 students, 41 of them in universities, who studied Estonian intensively before starting their specialised higher education studies in state commissioned student places. In the academic year 2004/2005, 1,224,300 Estonian kroons was spent on financing intensive studies of Estonian of 147 students, i.e. 135 students for 0.5 years and 12 students for 1 year.

Paragraph 3 – Vocational training and re-training of adults

Question

How in-service and out-of-service training and retraining of employed workers are organised. Accordingly, the Committee requests detailed information in this respect. In particular, it asks whether and under what conditions employed workers are entitled to leave for individual training or retraining.

The Committee also requests more detailed information on the funding of vocational training and on how the financial burden is shared among state and local authorities, other public institutions, employers and individuals.

The Committee further requests that the next report provide information on the existence of preventive measures against the deskilling of active workers who may lose their job as a consequence of technological and/or economic changes.

Employees who have been made redundant can receive retraining within the ESF projects. These projects include the Estonian Unemployment Insurance Fund project "Responding to Collective Redundancy," the Employment Promotion of the Disabled project in the case of the disabled, etc.

There is no provision in the legal acts which requires employers to organise retraining of people made redundant; however, in some instances employers have done that on their own initiative.

Study opportunities

Adult study opportunities and rights to study are provided in the Adult Education Act. According to the Act, adult learners are people who study part-time, attend evening classes or other courses, or participate in distance learning or external studies. The Adult Education Act stipulates that all people have the right to study, which does not depend on their age, gender, level of education or job.

Adults have opportunities for preliminary training, continuing education and retraining in the context of formal education (for acquiring general, vocational and higher education), professional education & training and informal education.

Formal professional education and training for adults is provided in vocational education institutions, professional education institutions and universities.

Completion of formal education is certified by a certificate/diploma or qualification. The difference between continuing education and retraining is that the volumes of the latter are not stated in legal acts and such training does not need to lead to a qualification.

According to legal acts, formal education institutions (vocational education institutions and universities) organise continuing education and retraining in all the main fields in which they offer education and in other fields if they want to. The fields and formats of and procedure for continuing education provided at a university/professional higher education institution is approved by the council of the university/professional higher education institution. Vocational education institutions may provide professional education and training in the fields they teach in as well as in other fields if they want, provided that they have the respective teaching materials and teachers with appropriate qualifications. The curricula are approved by a headmaster.

All people who meet the requirements for starting their studies at a certain level have access to formal education. Access to continuing education or retraining is not restricted by legal acts either. However, there are many reasons for which one or the other type of education or training is not actually accessible: the education/training is provided far from one's place of living, financial limitations, time limitations, work or private life do not allow for studying, etc.

Professional education and training courses are offered by the following educational institutions:

- vocational education institutions;
- institutions of professional higher education;
- universities (at open universities);
- private educational institutions (both the private and third sectors);
- companies;
- professional associations;
- sole proprietors.

Informal education is offered by:

- state and local government agencies;
- private educational institutions (both the private and third sectors);
- non-profit associations and civil law partnerships;
- sole proprietors.

Private educational institutions (both commercial and non-profit) operate in Estonia pursuant to the Adult Education Act and Private Schools Act. These educational institutions differ from vocational education institutions, professional higher education institutions and universities in that they provide only professional training or informal education, not formal education.

If the education or training offered by a private school exceeds 120 hours, the school has to obtain an education license from the Ministry of Education and Research.

Learners may attend all the above educational and training institutions and choose the study arrangements and speed, i.e. study load, which suit them best.

Most vocational education institutions, professional education institutions and universities offer adult education in fields in which they provide preliminary education. Educational institutions have the right to provide education in those fields in which they do not provide preliminary education if they have adequate teaching materials and instructors.

As the formal education institutions and private training institutions may provide continuing education and retraining in the fields where they have qualifications in and where there exists a market, the planning of the continuing education and retraining fields, volumes and content is the responsibility of those who provide the training/education and as an ideal, this is done in cooperation with those who commission the training.

The training of employees is not regulated at the national level. Each institution plans and organises training according to their needs and possibilities.

Learners' rights

The Adult Education Act provides for the right of every person to continuous self-improvement and obligations of the state, local governments and employers in coordinating and carrying out adult education.

Pursuant to the Income Tax Act, people have the right to an exemption from income tax in the amounts spent on education and training.

In addition to tax exemption, the Adult Education Act provides people with the right to take study leave in order to participate in training. Pursuant to the Act, part-time learners have the right to take study leave as follows:

- At least 30 calendar days per academic year in the case of formal education; additional leave may be requested for completing studies in which case the number of days depends on the level of education acquired. Employers continue to pay their employees average wages for ten days and minimum wages for the rest of the study leave.

- For professional education and training people are granted study leave of at least 14 calendar days a year and they are paid their average wages.

- Study leave without pay of at least seven calendar days in a year is granted in order to participate in informal education.

These rights are valid both in the public and private sectors and do not depend on the field of activity.

Pursuant to the Public Service Act, state officials are granted study leave with pay for up to three months once every five years for professional development.

In addition to the abovementioned advantages, the state protects through the education permits system the interests of those who purchase education services. There are national requirements for providers of education and these should provide certain guarantees for those who order education or training. In the case of formal education institutions, the requirements pertain to the content and duration of the study, completion criteria, teachers/trainers and study environment. Institutions offering professional or informal education are issued education permits if the education or training offered exceeds 120 hours or six months a year.

Financing

The Estonian vocational education system is financed from the state budget as formal education, i.e. learners do not have to pay for their studies irrespective of whether they attend full-time or part-time studies.

Part-time studies in higher education are financed by the state only in the case of priority groups (e.g. teachers who already have higher education), i.e. usually learners have to pay for their studies.

Professional training courses are financed from the state budget in the case of instructors (3% of the payroll), officials (2 to 4% of the payroll) and continuing education and/or retraining of the unemployed and job-seekers.

Informal training centres are financed from the state budget only partially. The support has been about 127,389 euros in recent years and this amount has been divided among 45 centres. These centres offer quite many professional courses.

In addition to state support, local governments may earmark certain budgetary resources for supporting adult education.

The European Social Fund (ESF) also finances company training projects in order to encourage companies to offer their employees training courses. One of the biggest providers of training support is Enterprise Estonia, which distributes resources from the ESF. Through Enterprise Estonia companies can apply for project-based training support if they finance part of the project themselves. This opportunity is quite popular. In addition to the ESF, there are various educational programmes of the European Union which may not focus directly on the training of company employees but companies and people who engage in training and human resources development in the companies may participate in these programmes.

In conclusion it may be said that the training is supported through the tax system, as well as through the ESF and various EU educational programmes.

Table 23: Adults (aged 25 to 64) in training.

Year	**2002**	**2003**	**2004**
Percentage	5.2	6.2	6.7

Source: Eurostat.

Table 24: 15 to 74-year-olds by age and participation in a training course within the recent four weeks.

Participants in training (%)	2002	2003	2004
Men	1.6	2.1	1.7
Women	2.3	3.8	2.9
Average	1.9	3.0	3.5

Source: Estonian Statistical Office.

Table 25: Participation of adults in informal education and the number of training centres (centres receiving support from the state budget).

	2002	2003	2004
Number of learners	35,403	37,714	42,536
Number of centres	43	47	49

Source: Estonian Non-Formal Adult Education Association.

Question

The Committee requests that the next report provide more detailed information on:

- the types of vocational training available for unemployed people;

- the reasons why only a small proportion (about 10%) of unemployed participate in training programmes;

- the reason why the proportion of job-seekers who have found a job following their participation in training programmes is only 52%;

- the number of unemployed people undergoing training and their gender balance;

- the public expenditure on training measures for the unemployed, as a percentage of the total expenditure of employment measures and as a percentage of GDP.

Legal acts guarantee the rights and opportunities of all people, including the unemployed and the disabled, to study and participate in various training courses. Both preliminary and continuing training are moving towards greater flexibility which should ensure that the studies are available to everybody – to workers, unemployed people, people caring for their young children and people with disabilities. In most cases learners and those who commission training have the opportunity to choose the most suitable time and form of study, speed and study load; this applies to formal and continuing education and retraining.

Pursuant to the Employment Service Act which was valid until 2006, the unemployed, including the long-term unemployed, had the right to request employment services, including labour market training, which were financed from the state budget. Labour market training is offered as professional continuous education or retraining or short-term training for adapting to the labour market or for job-seeking or as computer classes.

The unemployed received support if the training lasted for 80 hours or more and if the place of residence of the unemployed was further than 30 kilometres, it was possible to request additional support to cover the transportation costs. Since 1 January 2006, the new Labour Market Services and Benefits Act provides support if a person participates in labour market training which lasts at least 40 hours. Furthermore, the new Act stipulates that the unemployed have medical insurance cover if they participate in labour market training which lasts more than 80 hours (the unemployed had no medical insurance cover earlier when they took part in labour market training). The new Act stipulates the payment of transportation and accommodation benefits (formerly only transportation benefit). The transportation and accommodation benefits are calculated on the basis of the distance between the place of employment raining and the place of residence of the unemployed person and the respective expense receipts. The unemployed are paid compensation for either transportation costs or accommodation costs per day.

Since 2005, the opportunities for active employment measures have increased considerably, also due to the resources from the European Social Fund. Therefore the number of people who received training increased in 2005.

According to the data from the Estonian Labour Market Board, the numbers of unemployed people who received labour market training in 2003 to 2005 were the following:

- 8394 (incl. 3860 long-term unemployed) in 2003
- 6963 (incl. 3520 long-term unemployed) in 2004
- 9865 (incl. 5230 long-term unemployed) in 2005

The fact that 52% of the participants in the training programmes find work has been considered a very good indicator on the European level. Nowadays, as the economy is growing, that number may further increase.

As there are more women among the registered unemployed (54.6% in 2004, 55.7% in 2005), there are more of them in the training programmes as well although we have no exact data on that. Two-thirds of participants in projects are women and one-third men, thus the percentages are probably the same in the case of training courses as well. However, there has been an increase in the training courses for traditional men's specialties, which may balance the situation.

Table 26: Expenditure on employment measures (incl. projects, million kroons).

	2003	2004
Passive employment measures	97.3	76.1
Active employment measures	99.8	196.9
incl. organisation of training	46.5	41.6
support	7.2	5.4
TOTAL	197.1	243
Percentage of training		
in expenditure on employment	23.6	19.3
of the GDP	0.04	0.03

Source: Labour Market Board.

Table 27: Labour force and the unemployed (annual average, thousand people).

	2003	2004
Labour force	660.5	659.1
Unemployed	66.2	63.6
incl. long-term unemployed	30.4	33.2
% of labour force	4.6	5. 0

Source: Labour force survey, Estonian Statistical Office.

Paragraph 4 - Long-term unemployed

Question

The Committee requests more detailed information on:

- the kind of training provided to long-term unemployed persons (skilled and unskilled);

- the institutions in charge of the training;

- whether the training is specifically designed for long-term unemployed persons;

- the duration of each programme or course;

- the reasons why less than 10% of long-term unemployed participated in training programmes;

- the activation rate of long-term unemployed persons having benefited from vocational training.

Unemployment is mostly structural in Estonia, i.e. the education, skills and experience acquired do not often meet the rapidly changing demands of the labour market. The level of education of the unemployed is considerably lower than that of the employed. The lower the education level the higher the unemployment rate.

It is possible to offer long-term unemployed people various employment services, including practical or labour market training. The Labour Market Board purchases this service from vocational education institutions, higher education institutions and private companies who have an education permit.

In addition to that, those who have been unemployed for a very long time can be offered job simulation which allows for practicing the social skills which are necessary for working and getting used to the work discipline. The training period varies but pursuant to the Labour Market Services and Benefits Act, labour market training may last for up to one year. The specialties the training includes depends on each specific case. The services, including labour market training, are provided on the basis of an individual job-seeking plan which includes the skills, abilities, education, experience and desired jobs of each unemployed person. These data are the basis for mapping the service needs, including which training is necessary in each case. The percentage of the long-term unemployed in labour market training was small until the ESF projects started because the support for participating in the training was not enough (transportation, support, etc.). The resources of structural funds have made it possible to increase the benefits which facilitate better the participation of the long-term unemployed in training courses. The Labour Market Services and Benefits Act has increased the transportation and accommodation benefits as well. Therefore, the number of long-term unemployed who participate in the training courses has increased in 2006. Furthermore, a number of ESF projects which offer similar services are directed towards the long-term unemployed.

See also answers to the previous questions.

ARTICLE 15 - THE RIGHT OF PERSONS WITH DISABILITIES TO INDEPENDENCE, SOCIAL INTEGRATION AND PARTICIPATION IN THE LIFE OF THE COMMUNITY

Adopted legal acts

- Labour Market Services and Benefits Act – passed on 28 September 2005, entered into force on 1 January 2006; replaces the former Social Protection of the Unemployed Act and the Employment Services Act;

- Penal Code – passed on 6 June 2001, entered into force on 1 September 2002.

Question

The Committee asks whether explicit non-discrimination legislation exists in Estonia and wishes to receive information on the right of individuals to seek remedies before the courts in cases of discrimination.

According to Section 12(1) of the Constitution of the Republic of Estonia, everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds.

One constitutional institution where everyone whose rights and freedoms are violated has the right of recourse to is the Chancellor of Justice. The Chancellor of Justice resolves discrimination disputes which arise between persons in private law on the basis of the Constitution and other Acts. According to subsection 19 (1) of the Chancellor of Justice Act, everyone has the right of recourse to the Chancellor of Justice in order to have his or her rights protected by way of filing a petition to request verification whether or not a state agency, local government agency or body, legal person in public law, natural person or legal persons in private law performing public duties (hereinafter agency under supervision) adheres to the principles of observance of the fundamental rights and freedoms and to the principles of sound administration. According to subsection 2 of the same section, everyone has the right of recourse to the Chancellor of Justice for the conduct a conciliation procedure if he or she finds that a natural person or a legal person in private law has discriminated against him or her on the basis of:

- sex;

- race;

- nationality (ethnic origin);

- colour;

- language;

- origin;

- religion or religious beliefs;

- political or other opinion;
- property or social status;
- age;
- disability;
- sexual orientation, or
- other attributes specified by law.

Furthermore, Section 35[16] stipulates that the Chancellor of Justice is responsible for the application of the principle of equality and equal treatment.

According to Section 10 of the Employment Contracts Act (ECA), unequal treatment of employees is prohibited, whereby discrimination shall be taken to occur where a person applying for employment or an employee is discriminated against on the grounds of sex, racial origin, age, ethnic origin, level of language proficiency, disability, sexual orientation, duty to serve in defence forces, marital or family status, family-related duties, social status, representation of the interests of employees or membership in workers' associations, political opinions or membership in a political party or religious or other beliefs.

Giving preference to the disabled, including providing a work environment that meets the special needs of a disabled person, is not considered unequal treatment (clause 10^1 3) of the ECA), neither is taking account of the sex, level of language proficiency, age or disability upon employment of a person, or upon giving instructions or enabling access to retraining or in-service training, if this is an essential and determinative professional requirement arising from the nature of the professional activity or related conditions (clause 10^1 4) of the ECA).

Question

The Committee wishes to receive clarification on the actual number of persons with disabilities (children and adults) and the proportion of these persons living in institutions.

Regarding the people who (a) have been granted the social benefit of the disabled or (b) receive incapacity pension, the data for the year 2004 are the following:

(a) In 2004, there were 6,889 children under 18 years of age who had a disability, and 5,302 of them were under 16 years of age. Welfare institutions accommodated 1549 children, and 431 of them were children with disabilities.

(b) The number of people who received incapacity pension was 59,127 (this pension is paid to people whose incapacity for work is 40 percent or more and it is paid from the age of 16 until the person reaches (old-age) pension age). The provisions of this article, however, cover a slightly larger group of working age people, i.e. also those whose incapacity for work is less than 40 percent. Such people do not receive incapacity pension but they may have a degree of disability because they need assistance and they receive the disability benefit. The total number of working age people, who receive incapacity pension or disability benefit exceed 62 thousand (62,876 in September 2004). Half of them (30,454) receive disability benefit (a), i.e. they have additional costs due to their health condition or need of assistance.

At the end of 2004, there were 2732 people aged 18 to 64 in welfare institutions and obviously all of them were either unable to work or had a disability.

Among old-age pensioners, the number of the disabled is 67,538 and they receive the disability benefit. 6000 people aged 65 or older lived in welfare institutions at the end of 2004. There is no data on their disabilities because, as a rule, these people do not receive any disability benefit because it is paid in order to ensure independent managing. The subsistence of people in welfare institutions must be ensured with the services provided in these institutions.

Paragraph 1 – Guidance, education and vocational training for persons with disabilities

General education

Question

The Committee wishes to know whether there exist mainstream or special preschool institutions for children with disabilities and what the scope of assistance provided in such institutions is.

According to the Preschool Childcare Institutions Act, the focus is on the early detection of children with special needs and application of intervention education. Children with special needs have an opportunity to attend standard kindergarten where they are in ordinary groups but some support systems (teaching assistant, speech therapy, personal assistant, etc.) may be used if required.

- There are 6 special kindergartens (for 238 children). These often also have a counselling and support service function in order to help the children with special needs to start school as smoothly as possible.

- In addition, there are special groups (for 1668 children) in 137 preschool childcare institutions.

- If children with special needs are integrated into ordinary groups, the number of children in the group is decreased – one child with special needs accounts for three healthy children.

Children with special needs are given individual development plans and they attend development interviews during which the best development methods are chosen with the parents of the child. The aim of individual development plans is to support the development of the children and to integrate them into the ordinary education system.

Question

The Committee wishes to receive clarification whether the abovementioned special treatment classes in ordinary schools, supplementary schools and managing schools provide supplementary education integrated into ordinary education with the aim of allowing children with disabilities to follow education in the mainstream or whether they provide special education not related to education in ordinary schools. It also wishes to receive information on the geographical distribution of the different types of educational facilities available to children with disabilities.

According to the Education Act, each child who has reached school age (7 years) has the right to be admitted to the school which is near to his/her home. Today, we are of the opinion that there are no children who cannot be taught, curricula are adapted and there is no classification on the basis of disabilities. It has been accepted that disability-centred education arrangements are not the best – special educational needs is a much wider concept and these are not linked only to disabilities. Specific knowledge of disabilities is necessary, especially if pupils' communication, movement or learning abilities depend on it, but this is not primary. The focus must be on pupils, on bringing forward their positive characteristics and on the creation of an environment which is conducive to their maximum development.

Teaching can be done pursuant to three curricula of different levels. The main one is the national curriculum for basic schools and upper secondary schools, which has been approved by the *Riigikogu*. This is used as a basis for compiling a simplified curriculum and a curriculum for pupils with moderate or severe disabilities (managing curriculum). These two are meant for pupils with permanent learning disabilities who need to have an individual curriculum as well. Pupils who study pursuant to these curricula are mostly in special grades of ordinary schools or schools for children with special needs but some of them are in ordinary grades as well. Thus, it can be said that children with special needs receive adapted standard education**.** This basic education is equal to ordinary school and allows them to continue their studies in vocational education institutions.

County counselling committees have been organised in order to give advice to pupils, parents and schools. These counselling and study support centres provide specific learning support, help find out the special needs of pupils, learning disabilities and supervise the compilation of individual curricula.

See also answers to the following questions, including the geographical distribution of studying opportunities for children with disabilities.

Question

The report states that teachers are trained for the work with children with special needs during their university education and receive continued training courses for special education during their professional life. The Committee wishes to receive clarification whether such training is an integral part of general teacher training.

All formal education curricula for teacher training prepare students for working with children with special needs (these contain a module on special educational needs). Teacher training curricula have been improved with the special educational needs module in order to improve involvement. University continuing education centres have started courses for active teachers on special educational needs, implementation of the special education support system, counselling and provision of learning support. Therefore, there has been an increase in the number of teachers who have the knowledge and skills for involving pupils with special needs and adapting the learning environment.

Question

With respect to the modalities of the right to an equal effective education in the mainstream the Committee wishes to receive information on the following issues:

- whether and how resources follow the child (including support staff and other technical assistance) and whether measures are in place to facilitate the integration of children with disabilities into mainstream education, like, e.g. to adapt schools to make them physically accessible;

- whether and how testing or examination modalities are adjusted to take account of disability and whether the fact that examinations are taken under non-standard conditions is revealed to third parties;

- whether the qualifications that eventuate are the same for all children or whether different qualifications ensue and if so, whether these qualifications are officially recognised and validated and whether they have the same functional value to the individual as the mainstream qualification. In order to evaluate this, the Committee is interested in learning what the relative progression rates are for such children into employment or further education.

With respect to special education, the Committee is particularly interested in the following issues:

- whether the Ministry of Education has primary responsibility;

- how the curriculum is designed and whether the curriculum and the abovementioned individual study plans and rehabilitation programmes are validated/adopted by the Ministry for Education;

- what kinds of qualifications the curriculum leads to and whether they are recognised in order to enable progress into further education or to gain entry to vocational education or the open labour market;

- what the success rate is in progressing into vocational training, or further education or into the open labour market;

- whether the quality of education is monitored by mainstream monitoring mechanisms.

The education opportunities of people with special needs, including the disabled, have increased due to the Education Act passed in 1992. Section 4 of the Act provides that everybody must have an opportunity to attend school and for continuous study. According to Section 19 of the Basic Schools and Upper Secondary Schools Act, a school is required to ensure study opportunities for each child who resides in the catchments' area of the school. The standard education system includes an obligation to apply various support systems (remedial study, special education teachers, speech therapists, psychologists, etc.) for better involvement of pupils. In 2005, all pupils who study according to adapted curricula (simplified, managing, for visually or hearing impaired pupils) may prolong their studies in order to achieve better managing and preliminary vocational education, which ensures better opportunities in continuing education and the labour market.

Thus, the first opportunity for a child is the home school. If the ordinary school has no appropriate facilities for the special needs, the school has to find another school which meets the requirements and suits the pupil.

Children with special needs can acquire basic education in schools meant for children with special needs. This is suggested by a county counselling committee and parents have to submit the respective request. Schools for children with special needs are mainly state schools but there are some municipal and private schools as well. There were 46 such schools in 2004. The number of pupils studying at schools for children with special needs was 5.6 thousand, i.e. 2.9 percent of all the pupils engaged in daytime studies (Source: Statistical Yearbook of Estonia 2005, Estonian Statistical Office). In addition, there are about 20 thousand children with temporary or permanent learning disabilities or disabled children who study in standard grades (10.5 percent of pupils engaged in daytime studies). For example, in the academic year 2004/2005, there were 36 hearing impaired and 62 visually impaired children, 92 mobility impaired children and 394 pupils who studied according to simplified curriculum and 56 who studied according to managing curriculum who all were studying in ordinary grades.

Some special schools are in larger centres, e.g. Tartu and Tallinn schools for the deaf and Tallinn school for the visually impaired; the rest are spread quite evenly throughout the territory of Estonia.

Basic education is compulsory and accessible to everybody, whereby curricula have to be adjusted according to the special needs of pupils. Basic education can be acquired on the basis of various curricula but the qualification acquired is similar and allows for further studies.

Basic school final exams can be taken on special conditions where the disability is taken into account and information on that is not shared with anybody. The grading system is flexible.

In the schools for children with special needs, the studies are based on simplified or managing curricula and there are no uniform examinations. The schools themselves compile the exam questions and organise exams. The document certifying the acquisition of basic education is similar to that issued by ordinary schools or given to pupils graduating from special grades of ordinary schools and it gives their owners the right to continue their studies in vocational education institutions.

The Ministry of Education and Research has the primary responsibility for the functioning of the educational system. Adapting the school buildings to allow physical access to the disabled by renovation or new buildings is ensured in legal acts. Old schools do not always provide such access. Financing student places takes into account the additional expenses incurred due to special needs and the financing is increased according to the severity of the disability.

Vocational Training

Question

The report states that the number of vocational education institutions was higher in the academic year 2000/2001 (42 schools and 529 students in total) and in the academic year 2001/2002 (60 schools and 688 students). The Committee notes that although there were more institutions in the preceding academic years, the total number of pupils attending such institutions was lower. It asks the Government to explain the reasons for this development in the next report. It would in particular like to know whether the number of existing institutions matches the demand and whether the resources and staff available are sufficient to enable effective provision of vocational training to persons with disabilities.

The vocational education institutions under the administration of the Ministry of Education and Research are all regular vocational education institutions and they have facilities for pupils with special needs to acquire vocational education. On 1 September 2005, the total number of vocational education institutions in Estonia was 60, of which 41 were state-owned, 3 municipally owned and 16 privately owned institutions. Pupils with special needs attend about 1/3 of these. The abovementioned 60 schools is the total number of schools, and of these 42 schools were state schools and 529 was the number of pupils with special needs who attended state schools.

The only special vocational education institution is the Astangu Vocational Rehabilitation Centre under the Ministry of Social Affairs.

Table 28: The number of vocational education institutions which provide education to pupils with special needs and the number of such pupils.

	2002/03	**2003/04**	**2004/05**
Number of vocational education institutions	20	24	22
Number of pupils with special needs	811	925	1000
- incl. Astangu Vocational Rehabilitation Centre*	96	91	98

- Only vocational education with three years of study.

Source: Ministry of Education and Research.

More information about the special vocational education institution (Astangu Vocational rehabilitation Centre) can be found in the answer to the following question.

Question

The Committee wishes to know how many young persons with disabilities are integrated into mainstream and specialist vocational facilities and what the measures available are to assist their integration into mainstream facilities.

Committee wishes to receive information on:

- the number of adult persons with disabilities integrated into mainstream adult facilities;

- measures taken to assist integration into mainstream facilities;

- the number of specialist vocational training facilities for adults and the number of persons attending them.

Vocational education of young people with special needs is regulated with the Government of the Republic Regulation "The Conditions and Arrangements for the Study of the Disabled in Vocational Education Institutions" which is based on the Vocational Education Institutions Act and according to which pupils with special needs who have acquired at least basic education (incl. on the basis of simplified or managing curriculum) have been ensured with opportunities for acquiring vocational education. The provision of vocational education to such pupils makes use of support systems, aids, communication support (sign language interpreters, etc.), several alternative teaching methods, studying in small groups of 6 to 8 people. In order to facilitate better entry into the labour market, transition plans are applied in cooperation with employers.

Pupils with special needs are admitted to vocational education institutions on the basis of their rehabilitation plans or some other similar document and, if necessary, they are given personal support or individual programmes are compiled for them. There are many alternative vocational education options, e.g. apprentice training, etc., and new curricula which suit the disabled for acquiring a vocation.

Educational institutions provide the disabled with the necessary aids, adapted rooms, communication aids (sign language interpreters) and personal assistants. In concluding a contract on organising practical training for the disabled the special needs of such people are taken into account. In general, practical training takes place at the workplace where the disabled person starts working after graduating from the educational institution. The calculated financing per pupil with special needs is double.

There is one vocational education institution in Estonia which specialises in teaching pupils with mild or severe mental disabilities or special needs but the overall trend is towards integrated study.

Astangu Vocational Rehabilitation Centre

The only special vocational education institution is the Astangu Vocational Rehabilitation Centre (hereafter "Centre") which is a state agency under the administration of the Ministry of Social Affairs which provides services of social, educational and vocational rehabilitation and physiotherapy. 221 pupils with special needs have completed the three-year vocational studies at the in 9 years and 160 pupils with special needs have completed diagnostic studies there which lasted for one year.

Table 29: The number of pupils by specialties in 2003 to 2005 in the Astangu Vocational Rehabilitation Centre.

	Year	2003	2004	2005
	TOTAL number of pupils, incl.	126	132	136
1.	cabinet making	24	24	24
2.	baking	24	24	24
3.	sewing of light clothing	16	16	8
4.	cleaning	8	8	-
5.	computer servicing on the basis of basic school	8	8	8
6.	computer servicing on the basis of secondary school	24	24	12
7.	home economics	-	6	12
8.	traditional handicraft and entrepreneurship	-	-	8
9.	diagnostic studies (managing classes and preparatory classes)	22	22	28
10.	introduction to information technology	-	-	12

Source: Ministry of Education and Research

The vocational education classes of three years are meant for those pupils with special needs who have acquired basic education in various types of school and grade or according to an individual curriculum on the basis of the simplified curriculum (supplementary learning curriculum). The vocations taught are those in the above table.

The diagnostic classes (managing class and preparatory class) are one-year courses for people who are 15 years of age or older and who have completed compulsory education on the level of managing either in an ordinary or support school, according to an individual curriculum at home or have not acquired any school education, e.g. have been in a welfare home, but need supporting education in order to manage with their everyday life.

Managing classes are based on the respective general curriculum and the rehabilitation recommendations for each pupil according to which each pupil is given an individual curriculum.

Rehabilitation includes general and speech correction, physical and general therapy, social skills development and exercises with the help of various specialists. The teaching is supportive-corrective; the pupils acquire age-specific practical social skills to be used in everyday life and skills to take care of themselves. The teaching is based on the holistic approach and contains various subjects which are closely interconnected:

- managing subjects: personal care, independence, physical development;
- practical activity and work subjects: manual training, art, household chores, elements of vocational training;
- general subjects: Estonian and mathematics;
- orientation subjects: history and civics, local history and natural science.

The preparatory classes allow pupils to think longer on the choice of vocation; counselling and additional training are provided for improving their readiness to learn and developing their managing skills.

The teaching depends on the curricula and syllabi of the preparatory course and the needs of each pupil.

The curriculum contains the following manual and vocational training subjects:

- for girls/women: sewing, handicraft, baking, pastry making and cleaning practice;
- for young men: wood processing, metal processing, baking and pastry making practice.

In addition, they are taught the following orientation and social managing subjects: independence, managing, practical Estonian and literature, English, mathematics, physics and chemistry elements, history, civics, local history, natural science, physical development. All the teaching is diagnostic - the studies enhance the skills of the pupils and practicing various vocations helps to identify the suitable specialty for vocational education. Furthermore, an introductory course on information technology is taught as well. The main aim of this curriculum is to provide an opportunity to acquire basic computer skills and apply for an AO1-AO7 Computer Driving Licence. The course also teaches subjects which help the pupils to be psychologically prepared for active competition on the labour market.

The study group is put together of people with physical or permanent disabilities who are interested in information technology and on the basis of their personal rehabilitation plan. Possible special needs are taken into account and alternative study opportunities are offered. The curriculum requires secondary education but persons with basic education can also study on the basis of standard curriculum if individual approach and individual adapted curricula are used.

See also answers to the previous and following questions.

Question

The Committee requests that the next report provide information on access for persons with disabilities to university education.

People with special needs have access to higher education and the required physical environment for their studies has been ensured. In addition, they can request a personal assistant or communication support from the Ministry of Education and Research. The two biggest universities have special ramps and lifts for students with physical disabilities.

In 2005, the Ministry of Education and Research assigned about 360,000 kroons for support services provided to disabled students. Most of that amount, i.e. 304,630 kroons, was given to public universities and the rest was given to private and state professional higher education institutions.

According to the information received from the different NGOs dealing with the rights of people with disabilities, in October 2004, there were 5 mobility impaired, 4 hearing impaired and 6 visually impaired students in bachelor's studies and 1 hearing impaired student in doctoral studies.

In December 2005, the Minister of Education and Research, the Chairman of the Board of the Estonian Union of Persons with Mobility Impairment and representatives of four educational institutions signed tripartite contracts on the provision of services of support persons to students with severe and profound disabilities. This service is meant primarily for mobility and visually impaired students as, so far, the main part of financing was used for sign language interpreters who helped hearing impaired students.

Paragraph 2 – Employment of persons with disabilities

Question

The Committee had previously considered under Article 15 of the 1961 Charter that non-discrimination legislation is required in order to create genuine equality of opportunities in the open labour market. A fortiori, this reasoning also applies to Article 15§2 of the Revised Charter. The Committee asks whether explicit anti-discrimination legislation exists in Estonia and wishes to receive further information on the right of individuals to seek remedies before the courts in cases of discrimination.

See the answer to paragraph 1 of the same article.

Question

Pursuant to the Unemployed Persons Social Protection Act persons who are partially incapable of working are entitled to register as unemployed and to benefit from the services provided by the existing labour market services such as labour market training, vocational training, etc. The Committee asks in this context what the labour market services available are and what the criteria a disabled person has to fulfill are in order to qualify as a beneficiary of these services.

The Labour Market Services and Benefits Act offers four new special services which help the disabled to compete on the labour market equally with others. The services, however, have been provided since 2004 when the project “Employment Promotion of the Disabled” which was financed by the European Social Fund and co-financed by the Ministry of Social Affairs was implemented.

According to the Labour Market Services and Benefits Act, the services meant for the disabled are the following:

- adaptation of work rooms and work equipment;
- free provision of technical aids;
- help with job interviews;
- support worker.

These employment services are provided to the disabled on the condition that these are necessary for eliminating the impairment-related obstacles for starting work or working and other employment services are not successful.

Employers who conclude employment contracts or contracts for services with disabled persons have the right to receive 50 percent compensation but not more than 30,000 kroons in 2006 for making the work rooms or work equipment accessible and usable for the disabled persons. Disabled people have the right to receive free of charge a technical aid without which they cannot perform their professional duties and the right to enjoy the services of a support person during work for up to one year. The service of working with a support person can be provided up to 8 hours a day during the first month, up to 4 hours a day during the second month and up to 2 hours a day during the following months but not more than 700 hours a year. An employee of a regional structural unit of the Labour Market Board will help the unemployed during their job interviews. Should that employee have no required skills, a contract is concluded with a person who can help disabled persons during their job interviews.

In addition to the services meant for the disabled, the disabled have an opportunity to use other employment services as well, e.g. employment mediation, labour market training, career guidance, practical training, job simulation, start-up assistance.

In addition to the incapacity pension, the disabled can receive stipend during their labour market training. They can also receive the start-of business assistance 20,000 kroons, which can be claimed by unemployed persons who are at least 18 years old, have completed business training or have vocational or higher education in economics or business experience.

These services are financed from the state budget through the Labour Market Board.

The Act provides the following definitions of the unemployed, job-seekers and unemployed persons with disabilities:

- A job-seeker is a person who seeks work and has been registered as a job-seeker at a regional structural unit of the Estonian Labour Market Board. A job-seeker is seeking work if s/he turns to the structural unit of the Labour Market Board at least once in 30 days in order to receive the job mediation service.

- An unemployed person is a person who has been registered as unemployed at a regional structural unit of the Labour Market Board and seeks work. An unemployed person is seeking work if s/he acts according to his/her individual job-seeking plan and is ready to accept a suitable job and start work immediately.

- An unemployed person with disabilities is an unemployed person who has a disability as provided in the Social Benefits for Disabled Persons Act or who has been declared permanently incapable of work on the basis of the State Pension Insurance Act.

The service needs are mapped in individual job-seeking plans prepared for the unemployed. These plans also include problems which obstruct their successful access to the labour market and how to solve these problems. Since 2004, there has been a case manager in each labour market region whose clients are unemployed people with disabilities or incapable of work. In cooperation with other specialists, especially social workers of local governments, these case managers have to offer solutions which facilitate the successful entry of the unemployed into the labour market.

Individual job-seeking plans consist of two parts. The first part contains general information about the unemployed person and it is made for every person who is registered as unemployed. The second, more detailed, part of the individual job-seeking plan is prepared within 18 weeks of the day the person was registered as unemployed. If the unemployed person belongs to a risk group (incl. persons with disabilities) and his/her employment is difficult, the second part of the job-seeking plan is prepared immediately but not later than within five weeks of the day s/he was registered as unemployed.

The second part of the job-seeking plan consists of the following:

- an analysis of the professional and working skills of the unemployed person and other skills which facilitate his/her employment;

- a description of the circumstances which hinder his/her unemployment;

- employment services which are necessary for eliminating or alleviating the circumstances hindering employment, including the services like job simulation, wage support and other measures, their providers and time schedule.

The following persons belong to the risk group:

- unemployed persons with disabilities who need additional help for employment because of their disability;

- unemployed people aged between 16 and 24;

- unemployed persons who have been released from prison within 12 months before registration as unemployed;

- unemployed persons aged 55 to pension age;

- unemployed people who have received caregiver's allowance within the meaning of the Social Benefits for Disabled People Act prior registration as unemployed and who have not been working or equivalently engaged within the 12 months prior to the registration as unemployed;

- unemployed people who have received caregiver's allowance within the meaning of the Social Welfare Act prior to registration as unemployed and who have not been working or equivalently engaged within the 12 months prior to the registration as unemployed;

- long-term unemployed who have not been working or equally engaged within the 12 months prior to registration as unemployed. Young people aged between 16 and 24 are long-term unemployed if they have not been working or equally engaged for 6 months;

- unemployed persons who do not speak Estonian and whose employment is difficult because of that.

Activities equal to working are raising a child until it reaches 8 years of age, being in hospital or ill, receiving incapacity pension, taking care of an elderly person, etc.

Question

The Committee would like to receive information on the total number of persons with disabilities of working age in Estonia, the total number of such persons in employment and the number registered as seeking employment. In order to have a clearer picture of the situation the Committee wishes to know the total number of persons with disabilities in an ordinary work environment – private and public sector in every capacity.

In September 2004, the number of incapacity pensioners (incapacity for work 40% or more)/persons with disabilities of working age was 62,876 and 16,524, i.e. 26.3 percent of them were working (data from the Estonian National Social Insurance Board).

The previous statistics on persons with disabilities registered as job-seekers is not complete. What we know is that from October 2004 to November 2005, 272 people with disabilities received work through the Labour Market Board (the plan was 215). In 79 cases the workplaces were adjusted. Most of such people found work in the private sector or non-profit organisations. The number of people with disabilities, who benefit from labour market services, is constantly growing.

On 2002 the employment of people with long-term illnesses or disabilities was studied in the framework of a labour force survey. The data of survey is presented in the following table.

Table 30: People aged between 15 and 64 with long-term illnesses or disabilities in 2002 (thousand).

	Number of people	**%**	**Number of people who need assistance at work**			
			Yes	No	Incapable of work	Not known
Illness or disability which						
considerably restricts the capacity for work	50.7	25.2	4.6	63.9	24.1	3.9
slightly restricts the capacity for work	45.8	22.8				
does not restrict the capacity for work	104.8	52.0				
TOTAL	201.3	100				
Of those, employed	97.1	48.2				
unemployed	15.8	7.8				
inactive	88.5	44.0				

* Source: Labour Force 2002, Estonian Statistical Office.

According to the survey, the number of people whose disability considerably or slightly restricts their ability for work was 96.5 and 25.2 of them, i.e. 26.1 percent, were working.

The difference from the data of the Social Insurance Board is that the incapacity pension may be given to people whose loss of ability to work is 40 percent or more. Thus, in the table, their number is in the row “Illness or disability which considerably restricts the capacity for work” and partly also under “Illness or disability which slightly restricts the capacity for work.” Furthermore, the age group of the survey is slightly bigger than working age people.

A similar set of questions is included in the Estonian Labour Force Survey of 2006 as well.

Question

According to the report, "labour market benefits" in the form of subsidies are available to employers hiring a person who is regarded as being less competitive on the labour market. The Committee wishes to receive clarification as to what the criteria are for the classification of a person as being less competitive and wishes to know who is responsible for paying the said subsidies.

Wage support is a subsidy payable to employers for employing an unemployed person. Wage support can be used for employing

- an unemployed person who has been continuously registered as unemployed for more than 12 months and has not found work;
- an unemployed person aged 16 to 24 if they have been continuously registered as unemployed more than six months and have not found work;
- an unemployed person who has been released from prison during the previous 12 months.

Employers who employ a person on whom they are entitled to receive wage support are paid the support by the Labour Market Board.

Question

The report states that the monthly subsidy is equal to the minimum wage for the first six months of employment of the disabled person and amounts to half of the minimum wage for the following six months. The Committee wishes to receive clarification as to whether this calculation refers to the statutory or other minimum wage and information on the actual amount.

The amount of the subsidy depends on the minimum wage agreed by social partners and set by the Government of the Republic. The amounts are as follows:

- in 2003 – 2160,
- in 2004 – 2480,
- in 2005 – 2690,
- in 2006 – 3000 kroons a month in the case of full-time work.

Since 1 January 2006, the amount of wage support and term of payment are formulated as follows:

The amount of the wage support paid in the case of employing an unemployed person is 50 percent of the wage of the employee but not more than the minimum wage set by the Government of the Republic. Wage support is payable on the basis of a pay slip presented by the employer and according to the respective administrative contract concluded between the employer and the regional structural unit of the Labour Market Board; it is paid once a month for six months but not more than one year of the day the administrative contract was concluded.

Question

The Committee wishes to know whether similar benefits are available to private enterprises and whether there are further financial incentives (grants, tax concessions, etc.) available to employers who hire persons with disabilities. It also asks whether further measures exist to promote the employment of persons with disabilities such as, e.g. a requirement that employers have to employ a certain quota of persons with disabilities in the enterprise.

The entitlement to the subsidy does not depend on the type of enterprise or departmental belonging.

We mentioned in the previous report that the Social Tax Act allows some tax rebates to employers who hire people with disabilities. For those employees of a company, non-profit association or foundation whose loss of the capacity for work is 40 percent or more and who are included in the list established by the Minister of Social Affairs social tax is paid by the state on the basis of the monthly rate set in the state budget for the budgetary year. The social tax obligation of employers has been reduced by 231 kroons a month as the state pays the social tax (33%) on the first 700 kroons of the monthly pay. Since 1 January 2006, the state pays social tax on 1,400 kroons.

In addition, employers have to provide their employees who receive incapacity pension longer holidays (35 calendar days instead of 28; clause 9 (2) 2) of the Holidays Act). The holiday pay for these additional seven days is covered from the state budget.

There are no quotas in Estonia.

See also answers to the following question.

Question

The Committee asks whether there is an obligation on employers to make the workplace accessible to persons with disabilities and if so whether there is any assistance available to help employers (financial or technical) in adapting the workplace. The Committee also wishes to know whether there exist measures to promote the employment of persons with disabilities in the civil service.

The Republic of Estonia Employment Contracts Act stipulates the cases when employers are allowed to prefer one job-seeker over another without discriminating against anybody. In this case it concerns preferring the disabled, including the creation of a work environment which is suitable for the special needs of disabled workers (section 10^1 of the Republic of Estonia Employment Contracts Act).

In addition, the Occupational Health and Safety Act regulates the need for adapting work places. The work and workplace of a disabled worker shall be adapted to his or her physical and mental abilities (subsection 10 (4)). The Act also stipulates that the employer shall adapt the work to suit the workers as much as possible. Besides, upon the designing of a workplace and organisation of work, the physical, mental, gender and age characteristics of the worker shall be taken into account (subsection 9 (3)).

There are no separate measures for employing the disabled in the public sector.

The Labour Market Services and Benefits Act, which took effect on 1 January 2006, stipulates adapting working rooms and work equipment for the disabled. Employers who hire a disabled person who has been registered as unemployed in the local labour market area and actively seeks work are compensated from the state budget for half of the cost of the adaptation but not more than the maximum limit, which is 30,000 kroons in 2006.

Round-tables and counselling have been organised for employers in order to inform them of the disabled as potential labour force.

Question

The Committee notes that in connection with the National Action Plan for Employment, certain projects for supporting the employment of disabled persons between the age of 18 and 45 have been implemented since 2001 in several Estonian regions. Within the scope of such projects special training is provided to employment consultants in order to enable them to efficiently support persons with disabilities in finding a job and subsidies are granted to employers hiring disabled persons. Until the end of April 2002, 58 young persons were placed in jobs with the help of these projects. The Committee notes that the projects continued until the end of 2003 and wishes to be informed whether they have been extended or replaced by similar projects. According to the report, one of the main purposes of the projects was to create a positive attitude of the public towards people with disabilities. In this context, the Committee wishes to receive further information as to what the jobs and professions are to which persons with disabilities are appointed under these schemes.

The respective projects continued in 2004. Within Measure 1.3 “Equal Opportunities in the Labour Market” 13 ESF projects for the disabled have been carried out since 2004. The projects offer various services to the disabled (“traditional” services like wage support and labour market training as well as services directed specifically to the disabled: adaptation of work places and equipment, work with a support person, help during job interviews and provision of special technical aids for free). The services are provided on the basis of individual job-seeking plans in the case of which case managers perform assessment of the unemployed people as a result of which they list those services which the person most needs in order to find work. Jobs are offered on the basis of individuals’ education, work experience, skills, abilities and job requests. The service supports employment; it is not the basis for offering jobs.

Many of the earlier project-financed services (adaptation of work places and equipment, work with a support person, help during job interviews and provision of special technical aids for free) have been financed from the state budget on the basis of the Labour Market Services and Benefits Act since 2006.

The occupational tasks of the disabled are in general similar to those of people who have no disability. Depending on the disability, the tasks may be simplified.

The joint project of the Nordic Council of Ministers and the Baltic States “Supporting the Transition of Pupils with Special Needs” focussed on the transition of pupils with special needs from vocational education institutions to work life. Transition plans were prepared, employers were involved in adapting the work places used for practical training, employers were informed of the need to adapt work places and good cooperation skills were reached for integrating pupils with special needs in society. For the purpose of disseminating the experience gained from the project a conference was organised where more than 160 educationalists participated.

In 2005 and January 2006, an educational forum took place the main topic of which was pupils with special needs in vocational education institutions and their successful transition to work. One presentation was the report prepared at the end of the transition project and it was on the attitudes of vocational school teachers towards integration of pupils with special needs.

Question

Further support for persons with special needs is provided by the Astangu Vocational Rehabilitation Centre which has set up a network on the local government level for providing vocational counselling to disabled persons searching for a job as well as advice to employers interested in employing disabled persons.

The Committee wishes to receive confirmation that disabled persons employed under the abovementioned schemes are subject to the usual terms and conditions of employment including pay. It also wishes to receive information on further current strategies to improve the employment opportunities of persons with disabilities as well as the involvement of organisations of persons with disabilities in drawing up programmes and policies. It furthermore wishes to know whether there exist measures to ensure the retention of persons with disabilities in employment.

Employment relations are regulated by the respective legal acts, e.g. the Republic of Estonia Employment Contracts Act, Working and Rest Time Act, Wages Act and Occupational Health and Safety Act, and all the respective legal acts apply to everybody, including the disabled.

The increasingly active cooperation between the social and labour sectors is very important. This cooperation has resulted in better provision of (support) services to disabled employees and job-seekers. On the basis of the case management method, services are offered in the employment system and local governments where the aim is to offer clients the help they need the most. In the case of the disabled job-seekers, the most decisive service may be not the employment service but the service which helps them to reach the labour market, i.e. transportation, childcare services, persona assistant, etc. Local governments can help in providing such services. Organisations of the disabled have also become more active in informing about the needs of these target groups. In addition, organisations of the disabled are included in the development of legislation, various strategies and action plans.

Employment services are provided on the condition that an employment contract with no end date is concluded between the unemployed person and the employer. In the case of work room and equipment adaptation employers have to maintain the employment relationship at least three years, otherwise they have to fully return the compensation received for the adaptation. The Labour Market Services and Benefits Act also states the circumstances when employers do not have to return the above amount if they end the employment relationship earlier.

These circumstances are:

- The reason for the dismissal is the breach of duties by the employee, loss of trust in the employee or an indecent or corruptive act;

- The employee is not suitable for his or her office or the work to be performed due to professional skills or for reasons of health.

Question

There is no common national scheme for the creation of sheltered employment structures. The report makes reference to so-called supported work places in laundry departments and workrooms of daycare centres, care homes or non-profit companies specifically created for persons with disabilities. According to the report, the salaries paid in these facilities range from symbolic payments to salaries equal to those paid on the open labour market. The Committee recalls that, in order to comply with Article 15§2, sheltered employment facilities should aim to assist workers to migrate to the open labour market and that people working in sheltered employment facilities where production is the main activity must enjoy the usual benefits of labour law. The Committee wishes to receive a description of all types of sheltered employment facilities in existence (type, capacity, pay rates, etc.) and on the number of persons with disabilities employed in sheltered facilities. It further wishes to know whether trade unions are active in sheltered employment facilities.

The concept of sheltered and supported work is planned to be developed in 2006 and it should make the legal acts clearer as well. Today, there are sheltered work centres for people with psychological special needs, for the deaf and the blind. The centres are of various sizes. The work is done on the basis of contracts which among other things stipulate the pay for the work. In general, the Government of the Republic Regulation on the minimum wage regulates the pay. The amounts are given above. There are some special characteristics in sheltered work centres (the production is made as piecework and the price depends on that).

In addition to these centres, one welfare service provided is work support (Minister of Social Affairs regulation No. 4 “Compulsory Requirements for Welfare Institutions and Welfare Services” which took effect on 20 January 2002).The aim of the service is to make it possible for a person who lives independently or uses the service of supported living to work on the basis of an ordinary employment relationship (see also the more detailed description in the following paragraph). The regulation stipulates employers’ obligations to provide their employees with work in the amount of certain hours depending on the percentage of their incapacity.

The conditions for the provision of the service are:

- the incapacity for work of the person receiving the service is at least 40 percent;
- the person receiving the service has a moderate or severe disability;
- the person receiving the service has to follow through the rehabilitation cycle;
- the presence of one of the of the following criteria: (a) incapacity for working at the existing workplace or predictable loss of work; (b) the person is a job-seeker or unemployed; (c) the person does not work in a post in the case of which the employer receives from the labour market board an employment subsidy for hiring a person who is less competitive.

The legal acts contain no obstacles for moving from supported working to the labour market.

Trade unions are not very active in this respect.

Paragraph 3 – Integration and participation of persons with disabilities in the life of the community

Question

How have different plans and programmes been implemented in Estonian legislation and practice and how have measures for persons with disabilities been programmed to complement each other?

It also would like to receive information on any support services, provided by the State or by other organisations, such as home help, personal assistance programmes, etc., in order to enable persons to live in their own homes. The Committee also wishes to know what the costs are for such support services, if any, to be borne by the disabled.

One of the bases for the national policy is the General Concept of the Disability Policy of Estonia, i.e. the Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, which was developed on the basis of the standard rules of the UN and adopted by the Government of the Republic on 16 May 1995. In order to implement the standard rules two action plans approved by the Government of the Republic have been prepared within 10 years, the first in 2001 and the second in 2002.

The Social Welfare Act provides the organisational, economic and legal bases of social welfare and regulates the relations relating to social welfare. The justified needs of people as identified by a comprehensive and thorough assessment of their condition and social skills are the basis for the provision of the services which facilitate independent managing. The assessment of the condition and abilities of persons results in a choice of services which are oriented towards independent managing and ensure a level of social managing agreed in society. The maximum linking of people with general public services is primary.

Rehabilitation services are provided to support the ability of persons to manage independently, their social integration and employment or commencement of employment. These services entail preparation of an individual rehabilitation plan, provision of the services listed in the plan and supervision of the person in carrying out the activities listed in the plan. The following have the right to receive rehabilitation services provided by the state:

- children and adults who request the degree of disability,
- children and adults who have a disability, and
- people of 16 to 65 years of age with psychological special needs whose incapacity is at least 40 percent.

Rehabilitation teams and local government social workers cooperate with the aim of helping the disabled. The prepared plans are helping social workers in assessing the need for services, service provision and, if required, in developing new and necessary services or purchasing these from the providers of such services. Social counselling is provided within the framework of rehabilitation plans. In 2003, there were 7268 and in 2004 there were 10,492 people with disabilities or psychological special needs who received the rehabilitation service.

Provision of prosthetic, orthopaedic and other appliances (see below).

One important service for the disabled is domestic services. Domestic services are services provided to persons in their homes which help them manage in familiar surroundings. Domestic services are provided by local governments. Today, this is one of the best developed, best organised and most widely used types of services. Most local governments employ welfare workers who make home visits and help manage with everyday life and there are day-care centres where people can come themselves or they are brought there with a vehicle arranged by the local government. (Continuous) training courses are organised for welfare workers on various levels which should ensure the quality and uniformity of the services provided irrespective of the place of residence of the people who need the services. In 2004, there were 697 domestic service providers who cared for 5539 persons, 2831 of who have special needs (mostly people with disabilities).

The Social Welfare Act defines housing services as follows – local government authorities are required to provide housing for persons who are unable or incapable of securing housing for themselves or their families and to create, if necessary, the opportunity to lease social housing. If people have difficulties moving about, caring for themselves or communicating in a dwelling, they must be assisted by the rural municipality government or city government in adapting their housing or in obtaining more suitable housing. The recent years have seen more attention on the construction of social apartments and houses. At the end of 2004, there were 3439 people living in social apartments and spaces, and 953 of those people had disabilities. 125 apartments were adapted to people with disabilities.

In the case the person needs constant care the person providing the care is nominated by the local government of the place where the person who needs care lives. The consent of the provider and receiver of care is necessary for appointing the caregiver. Caretaking is established for performance of certain acts. A caregiver is not the legal representative of the person s/he cares for. The caregiver has the right to receive a caregiver allowance. The necessity for and the amount of the caregiver allowance is decided by the local government (it was established on the national level up to 2005).

In recent years several legal acts took effect which stipulate new services to people with disabilities and the quality requirements for the services, e.g. health protection requirements for adult and child welfare institutions, health protection requirements for catering in healthcare and welfare institutions, requirements for ensuring movement opportunities for mobility, visually and hearing impaired people in public buildings, obligatory requirements for welfare institutions and services. The latter regulates state financed services for people with psychological special needs (mental illness, mental disability or multiple disabilities).

There are nine services for people with psychological special needs, three of which are institutional. The non-institutional services are care management, rehabilitation, supported daily life, supported living, living in the community and supported working.

- Home living is supported mostly by the services of rehabilitation and supported daily life.

- Supported living and living in the community include the provision of accommodation in an ordinary environment in addition to the support and supervision of a professional. The service of supported living is also offered by many welfare institutions – here this is mostly meant as a transition service to practice independent living for those who have been living in a welfare institution for years.

The financing of services takes place from various sources – local government, various projects and partly by the person himself/herself. Day-care centres are usually free, except catering. Home assistance is also free; the persons have to pay only for the goods bought for them. If persons are temporarily committed to a welfare institution, their stay usually has to be paid for but local governments may pay part of the amount. Information on benefits in cash, technical aids and transportation for the disabled is below.

During recent years, the Ministry of Social Affairs has involved people with disabilities and their organisations in the preparation of strategic documents and analyses of their implementation. The Estonian Chamber of Disabled People is one important partner who has its organisation in all the counties and its member organisations include 31 national disability or illness-specific associations.

Question

The Committee wishes to receive information on the forms of economic assistance available to persons with disabilities to meet this additional expenditure.

The purpose of the Social Benefits for Disabled Persons Act is to support the ability of disabled persons to manage independently, their social integration and equal opportunities through partial compensation for the additional expenses caused by the disability. According to section 3 of this Act, benefits are paid to people with disabilities who incur additional expenses due to their moderate, severe or profound disability. Social benefits for the disabled are paid from the state budget.

Types of social benefits for disabled persons:

- disabled child allowance;
- disabled adult allowance;
- caregiver's allowance;
- disabled parent's allowance;
- education allowance;
- rehabilitation allowance;
- continuing education allowance.

Social benefits for disabled persons are paid to approximately 100,000 people in total. The number of people receiving the disabled adult allowance and caregiver's allowance payable to people who take care of disabled people aged 16 and older has increased in recent years.

Table 31: The number of people receiving social benefits for the disabled.

Type of benefit	2003	2004
Disabled child allowance	5125	5302
Disabled adult allowance	92,605	98,032
Caregiver's allowance	35,230	38,060
Disabled parent's allowance	1525	1521
Education allowance	31	27
Rehabilitation allowance	1614	1815
Continuing education allowance	52	34

Source: Social Insurance Board.

Table 32: Expenditure on social benefits for disabled persons (million kroons).

Type of benefit	**2003**	**2004**
Disabled child allowance	59.7	62.8
Disabled adult allowance	408.0	436.6
Caregiver's allowance	114.2	124.0
Other benefits	6.9	6.7
TOTAL benefits	**588.8**	**630.1**

Source: Social insurance Board.

In addition to the above opportunities, people with disabilities can request from local governments additional social benefits.

Question

The Committee wishes to know whether technical aids for the disabled are available, whether such aids are free of charge and what the conditions are for their receipt.

According to section 12 of the Social Welfare Act, persons who are in need of prosthetic, orthopaedic or other appliances due to illness, advanced age or disability have the right to receive the appropriate appliances. The Conditions of and Procedure for Applying for Technical Aids and Receiving these under Preferential Conditions regulates the sales and rental of technical aids to children, disabled people and elderly people under preferential conditions.

People who may request purchase or rent of technical aids under preferential conditions or compensation for the related services:

- parents or guardians of a child;
- working age people whose incapacity for work is 40 percent or more (in the case of hearing impairment, from 30 decibels of hearing loss) or they have a disability degree;
- old-age pensioners whose technical aid improves managing;
- diabetics who inject insulin;
- people who have had a mastectomy due to breast cancer.

Technical aids produced under special orders or as mass production are allocated under preferential conditions and these are adapted to each person as required.

The list of small technical aids which are compensated for stipulates the term of use, reference prices and percentage of state participation in paying for the aids. The list is updated as necessary and county governments have in special circumstance the right to provide technical aids which are not on the list. The state or the Estonian Health Insurance Fund pays part of the reference price of the technical aid.

Technical aids are available for the disabled through private companies; the state compensates for part of the expenses made on technical aids. The compensation percentage ranges from 50 to 90 percent and it depends on the type of the technical aid. The persons themselves have to cover the rest of the price of the technical aid but not less than 200 kroons (in 2006). In special cases, the person's own share of payment may be reduced to 5 percent of the total price of the technical aid if the local expert commission makes the respective decision. The aim of cost sharing is to ensure the persons' interest in preserving the technical aid.

The percentage paid by the state when these technical aids are rented or sold:

- 50 percent if technical aids are requested for children up to 18 years of age on the basis of a certificate of a specialist;
- 90 percent if technical aids are requested for children up to 18 years of age who have a disability within the meaning of the Social Benefits for Disabled Persons Act or with hearing loss starting from 30 decibels;

- 90 percent if technical aids are requested for persons up to 24 years of age who attend basic school, upper secondary school, vocational education institution, professional higher education institution or higher education institution and whose incapacity for work is 40 percent or more (in the case of hearing impairment, from 30 decibels of hearing loss) or they have a disability degree.

The total compensation paid from the state budget for technical aids during the reference period is as follows:

- 2003 – 35.7 million kroons
- 2004 – 31.7 million kroons.

In such a way 25.3 thousand people received a technical aid in 2003 and 26.4 thousand in 2004.

In addition, the Estonian Health Insurance Fund compensated for medical aids in the amount of 18.7 million kroons in 2003 and 23.1 million kroons in 2004.

The representatives of organisations of the disabled who belong to the national expert commission which makes decisions on financing more expensive technical aids were involved in the service arrangements during the reference period.

The cooperation committee of the organisations of the disabled and the Ministry of Social Affairs, which advises on the new regulations on service arrangements, is involved in improving the service quality.

Question

Article 15§3 requires the existence of comprehensive non-discrimination legislation covering both the public and the private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities and effective remedies for those who have been unlawfully treated. The Committee wishes to receive information on the existence and scope of such legislation in the next report.

See paragraph 1 of this article.

Question

The Committee asks for further information on measures to promote access to new information technology and telecommunications.

The Internet has become an important source of information in addition to newspapers, magazines, information leaflets, radio and television.

Of national development plans, access for the disabled is discussed in the “The Bases for Information Policy for 2004 to 2006,” a strategy for the development of the field of information technology solutions, the preparation of which was led by the Ministry of Economic Affairs and Communication.

The main objective has become the introduction of e-services in the public sector and the development has been fast (e.g. filling in income statements on-line, requesting health insurance cards, booking doctor's appointments, submitting information requests over the Internet, etc.). Special attention has been attributed to creating an e-environment in the field of education and healthcare through a consumer-centred approach and creation of technical opportunities for using various languages and meeting the needs of population groups with special needs.

In order to enhance the opportunities of socially disadvantaged population groups, including the disabled, for better managing and in order to avoid the digital divide, development of public Internet access points is being continued, and basic computer skills are being taught to all members of society, including the risk groups. Classes for risk groups are free of charge or for a small charge. The financing comes from the state budget, local government budgets or is project-based. Classes for the disabled take place in day centres, organisations of the disabled depending on the disabilities and needs of the clients of the organisation, on the basis of the educational system, in local public universities, etc.

All public sector web pages the aim of which is to inform the public and provide e-services to citizens and companies must be aligned with the Web Accessibility Initiative (WAI) standards (ordinary user, text version (speech synthesis), simplified text, etc.). The compatibility of the public sector web pages with the WAI requirements is checked periodically. Physical accessibility of public Internet access points also receives attention.

See above for the compensation of technical aids which disabled people need, also for ensuring access to new information technology and telecommunications.

Question

The Committee also requests information on the legal status of sign language.

Today, there are about 2000 people in Estonia who use sign language. In addition to the deaf who use sign language, sign language is used by the children of deaf parents, and sign language is thus the native language of these children, and some hearing impaired people. Thus, the total number of regular users of sign language is about 4500 in Estonia.

"The Development Strategy for the Language of Estonian (2004 to 2010)" was adopted by the Government of the Republic on 5 August 2004. This strategy is the first development strategy for the Estonian language. It covers all important fields of language use and contains a separate chapter on sign language and language use of people with special language needs. People with special language needs are deaf and hearing impaired people, blind and deaf-blind people, dyslexics, aphasics, people with dysarthria, etc. Deaf and hearing impaired Estonians and their friends and relatives use Estonian sign language (more specifically, Estonian sign language and signed Estonian); deaf-blind people use tactile sign language (signing holding each other's hands). The strategy includes the objective to ensure users of sign language and other people with special language needs good conditions for learning, communicating and working.

According to section 26 of the Social Welfare Act, the state and local governments have to secure people with disabilities with various social services. Since 1995, local governments have had to ensure hearing impaired people with interpretation services which they need for taking care of their affairs. According to the new Labour Market Services and Benefits Act the interpretation services can provided as help with job interviews (section 22).

Question

The Committee asks whether any steps are taken to make the existing public transport means accessible for persons with disabilities.

Local governments arrange for transportation to treatment, rehabilitation and educational centres for disabled persons according to their capacities and larger local governments provide a special taxi service for physically and visually impaired persons. The Committee asks whether these services are granted free of charge.

Of national development plans, accessibility for the disabled to the technical environment has been discussed primarily in the Transportation Development Plan, the preparation of which was led by the Ministry of Economic Affairs and Communication. This plan stresses repeatedly that the primary task of the transportation system is to ensure access for all people, including mobility impaired people, and companies to objects they need to access in their daily activities.

The Public Transport Act provides disabled children and adults with a profound disability the right to use national or local public transport free of charge. In addition to free rides given to the disabled, their guide dogs can ride free as well. The resources of the support fund may be used for developing adapted transportation or that of the disabled.

Each public transportation vehicle on local government/city/county routes has to have at least 2 labelled seats for preschoolers and disabled people. Other passengers have to vacant these seats if required. People who have a visible disability or present the respective certificate have the right to be serviced first in a taxi queue.

According to the Governmental regulation issued on the basis of the Social Welfare Act, in the context of the rehabilitation service, the disabled can request compensation for their transport expenses incurred in travelling from their place of residence to the place where the rehabilitation service is provided and back. The transportation expenses are compensated on the basis of expense receipts (gas receipt, bus tickets). Transportation expenses are compensated in the amount of 500 kroons a year (both the disabled and their representatives) if the rehabilitation institution is located outside the local government territory. Compensation for transportation expenses is also paid in the same amount to service providers if they travel to the persons' places of residence.

According to subsection 26 (4) of the Social welfare Act, a rural municipality or city government is responsible for organising transportation for the disabled. Thus, the daily transportation arrangements and accessibility for the disabled (low-floor busses, discount tickets, subsidies for bus companies for buying suitable busses, adapting them, adapting bus shelters and platforms, organisation of transportation services for the disabled, etc.) depend on local governments.

Organisation of public transport in the bigger cities is based on the principle that at least some vehicles on every route should be accessible for the disabled. For example, in the public transportation schedules of Tallinn, the departure times of low-floor vehicles have been marked.

In addition to public transportation, most local governments are able to offer special transportation for the disabled. Payment for such transportation varies between local governments but usually people have to pay a certain amount for the service themselves as well.

Local governments can offer additional discounts on the routes they operate.

Disabled pupils are taken to school and back by local governments or the schools.

Question

The Committee wishes to receive information on measures undertaken to improve the accessibility of existing public housing.

The Building Act provides the requirements for construction works, building materials, construction products, building design documentation and as-built drawings of construction works, and the basis and procedure for the design, building and use of construction works (section 1). Construction works are divided into buildings and civil engineering works.

The requirements for construction works state that if required by the purpose of use of the construction works, the works, parts thereof which are for public use and the premises and sites thereof shall be accessible to and usable by persons with reduced mobility and by visually impaired and hearing impaired persons.

Requirements for ensuring mobility of mobility/visually/hearing impaired people in public buildings are specified in Minister of Economic Affairs and Communication regulation No. 14 of 28 November 2002.

The implementation clauses provide guidance regarding existing buildings – the existing public buildings have to comply with the requirements of the regulation after reconstruction, extension, or if other existing buildings are given public functions as a result of construction work.

If in the case of new buildings it is rather easy to meet the requirements then making the existing buildings comply with the requirements through legal acts is much more complicated.

A separate regulation is on the requirements for lifts, funiculars, sub-systems and safety equipment, their compliance labelling and information labelling. Control panels have to be accessible and funiculars have to be safe for mobility impaired people.

The scope of implementation of these regulations depends on local governments who can influence the situation the best when preparing actual plans and issuing construction and use permits.

If persons have difficulties moving about, caring for themselves or communicating in a dwelling, they must be assisted by the local governments in adapting their housing or in obtaining more suitable housing if adapting is not possible. Adapting housing takes place on the basis of the above requirements for public buildings regarding the mobility/visually/hearing impaired people.

The contribution of organisations of the disabled in adapting the homes of the disabled is also important as such organisations can be of efficient help to local governments and contractors in consulting the construction specialists and advisors whose activities or inactivity is due to ignorance, not unwillingness.

Local governments are the closest to people and they have information on the people in need and their wishes and requirements. Local governments also have information on whether accessibility needs to be viewed from the aspect of mobility impairment or if there is a need for compensating some other special need.

Local governments have to ensure the service of adapting homes with an aim to securing independent managing of the disabled and local governments have to take care of the availability of personal support services on their territory as well. Payment for the respective expenditure is based on the procedure set by local governments but usually people have to pay a certain amount for the service themselves as well.

It has to be mentioned that much more has been done to improve the access of mobility impaired people to the technical environment than that of the hearing or visually impaired or people with combined disabilities but more and more attention is paid to other types of disability as well.

ARTICLE 21 – RIGHT OF WORKERS TO BE INFORMED AND CONSULTED

Adopted legislation:

- The Involvement of Employees In Activities of Community-scale Undertakings, Community-scale Groups of Undertakings and European Companies Act (adopted on 12 January 2005, entered into force 11 February 2005).

Question

The Committee asks whether these provisions apply to foreign workers who are nationals of other Parties to the Revised Charter or to the Charter of 1961.

Obligation to inform and consult employees in Estonia does not depend on nationality, origin, permanent residence or nationality of an employee. This right extends to all employees.

Question

The Committee requests detailed information on the rules and procedures governing the appointment of trade unions representatives and the election of employees' representatives.

As we have noted in our earlier reports that our laws, regulations and administrative provisions (the Employment Contracts Act, the Employee's Representatives Act, the Trade Unions Act, the Occupational Health and Safety Act) do not specify the details of the rules and procedures which concern appointment of a representative of the trade union and election of a representative of employees. Next we shall explain election of a representative on the basis of different acts.

Subsection 2 (1) and subsection 3 (3) of the Employees' Representatives Act provide merely that the procedure for election of a representative (who can be a representative of employees members of the trade union as well as a representative of all employees, in case of no trade union) and his or her term of authority shall be determined on the basis of the statutes of the union of employees, in case of election of a representative of employees not members of the trade union by the general meeting of the employees.

Pursuant to section 17 of the Occupational Health and Safety Act a working environment representative is a representative elected by the general meeting of the workers, in addition to him or her the workers' representatives of a working environment council shall be elected (section 18). As well as in the Involvement of Employees in Activities of Community-scale Undertakings, Community-scale Groups of Undertakings and European Companies Act, adopted in January 2005, a representative of the employees means a representative elected by all employees.

Specific rights and obligations of the trade union and a representative of the trade union arise from the Trade Unions Act (correspondingly clause 18 (1) 1) and clause 21 (1) 5)), their all kind of specifications are possible through collective agreements (subsection 21 (2)). The data concerning the number of such collective agreements is missing. Talking about collective agreements where the parties agree upon issues as regards informing and consulting, we do not mean the respective special collective agreements, but general collective agreements, which some provisions cover the issue of informing and consulting of employees. As a rule, these provisions are more general in their nature and defining general principles.

As regards appointment of representatives of trade unions then, in accordance with established practice, sometimes even federations of branch unions specify their procedure for appointment of a representative of the trade union or will provide appropriate rules for this. But federations of trade unions (The Estonian Central Federation of Trade Unions and the Estonian Employee's Unions' Confederation) do not specify these rules in their documents. In accordance with established practice there is no nomination of representatives of trade union, but election of a representative from among the members of trade union on a respective general meeting on the basis of the statutes of the union of employees.

Election of a representative of any employees (including a representative of the employees) shall be implemented by a general meeting of employees, convened for this purpose; set of rules and procedure for which are not specified by the legislator and which the parties agree upon on-the-spot.

At the same time, we will note that a Draft Act of a Representative of Employees Act is under preparation in the Ministry of Social Affairs which will simplify and make more clear the whole mechanism of informing and consulting of employees, based on a representative of elected by all employees (issues connected with collective bargaining and collective labour disputes will still be left to the representatives of trade union).

Question

The Committee asks whether there are other kinds of sanctions and whether workers or their representatives are entitled to some kind of compensation in case of a violation.

No, the legislator does not provide other kinds of sanctions or any kind of compensation.

[redacted]

ARTICLE 22 – RIGHT OF WORKERS TO TAKE PART IN THE DETERMINATION AND IMPROVEMENT OF THE WORKING CONDITIONS AND WORKING

Question

According to the report, legal provisions governing the participation of workers in the determination and improvement of the working conditions and working environment cover all categories of workers. The Committee asks whether these provisions are also applicable to workers who are nationals of other Parties to the Revised Charter or to the Charter of 1961.

Estonian legislation does not provide any specifications or limitations upon exercising the mentioned rights which are based on nationality, origin or nationality of an employee. This right extends to all employees.

Question

The Committee considers that the workers' right to take part in the determination and improvement of the working conditions and working environment implies that workers may contribute, to a certain extent, to the employer's decision making process. The Committee asks more detailed information in this respect.

The present right shall be exercised mainly in the following way:

- Determination and improvement of the working conditions and working environment through providing information and consultation to employees;
- Determination and improvement of the working conditions and working environment through the process of collective bargaining;
- Determination and improvement of the working conditions and working environment through the activities of the trade union;
- Determination and improvement of the working conditions and working environment through the activities of the employee's representative and the representative of working environment and the supervisory board of working environment.

Assessment of the present contribution is complicated as this will depend on the request of the employees to exercise this right (which can be very different in different enterprises), as well as on the objectives set. It is beyond all doubt that the whole process of collective bargaining contributes to determination of the working conditions and working environment, particularly if this will end with conclusion of a collective agreement.

Question

The Committee recalls that Article 22 of the Revised Charter does not require that employers offer social and socio-cultural services and facilities to their employees but requires that workers may participate in their organization, where such services and facilities have been established. It request appropriate information in this respect.

Although no such a direct obligation is imposed on the employer, the present participation shall be exercised mainly and in most effective way in practice through the collective agreements (use of sports halls and swimming pools, travel fair concession, benefits upon alimentation, group visits to cultural events, organising a Christmas party to the children of the employees etc.). The collective agreements which will be concluded on behalf of employees and will be prepared in their presence shall ensure that the employees will get an opportunity to participate.

Question

The Committee asks whether there are other kinds of sanctions and whether workers or their representatives are entitled to some kind of compensation in case of a violation.

Besides an administrative fine no other sanctions are provided in case of mentioned violations. Likewise, no compensation is provided in case of a violation.

[redacted]

ARTICLE 24 – RIGHT TO PROTECTION IN CASES OF TERMINATION OF EMPLOYMENT

Adopted legislation:

- Code of Civil Procedure (adopted 20 April 2005, entered into force 1 January 2006).

Question

The Committee asks for the next report to include interpretations of the staff-related reasons listed in Section 86 §§ 4, 6, 7, 8 and 10 of the Employment Contracts Act (lay-off of employees, employee's unsuitability, breach of duties by the employee, inappropriate behaviour, loss of trust, employee's age). As regards the economic reasons, the Committee asks for information on the interpretation given to Section 86 § 3, as this provision seems to regard economic reasons as permissible grounds for laying-off employees whereas Article 24 of the Revised Charter only permits economic reasons under certain conditions to justify laying-off employees. It asks for decisions and case law judgments in support of these interpretations.

Termination of employment contract on the ground of unsuitability of employee for his or her office or work to be performed due to professional skills or for reasons of health.

Upon termination of employment contract on the ground of clause 86 4) (unsuitability of employee for his or her office or work to be performed due to professional skills or for reasons of health) the employer shall follow section 101 of the Employment Contracts Act.

§ 101. Termination of employment contract upon unsuitability of employee for his or her office or work to be performed due to professional skills or for reasons of health

(1) An employer has the right to terminate an employment contract on the basis prescribed in clause 86 4) if the employee cannot manage to perform his or her duties due to insufficient professional skills or for reasons of health. An employer may terminate an employment contract on the same basis if:

1) the employee lacks a document which is a mandatory precondition for such work;

2) the employee is unsuitable for his or her position or office due to insufficient language or communication skills;

3) the employee fails to develop his or her professional knowledge (including proficiency in the official language and foreign languages) if this is necessary for the performance of his or her work and if the employer has provided the employee with the opportunity therefor pursuant to the agreed procedure.

(2) The deterioration of the health of an employee may be the reason for the termination of his or her employment contract if it is of a continuous nature and hinders or precludes continuation in his or her current position.

(3) An employer evaluates the conformity of the professional skills of the employee to the office to be held or the position to be filled. The conformity of the health of the employee is determined by the decision of a doctor.

(4) An employer may terminate an employment contract on the basis prescribed in clause 86 4) if it is not possible to offer another position to the employee or if the employee refuses an offered position.

An employer evaluates the conformity of the professional skills of the employee to the office to be held or the position to be filled. In case of dispute the employer shall prove inconformity of the professional skills of the employee and submit the facts on the basis of which the evaluation was made. A labour dispute committee and court shall evaluate in their turn whether the facts submitted by the employer were sufficient for termination of employment contract.

The circle of tasks of an employee and the requirements necessary for their performance shall be agreed upon conclusion of an employment contract. A more specific description of tasks is specified in job description. An employer shall determine which facts shall show whether abilities, knowledge, skills and experience of the employee are in conformity with the position to be filled. In case of a dispute the employer shall be able to demonstrate that the mentioned facts existed (the Supreme Court, civil matter No. 3-2-1-86-96 - RT III 1996, 22, 297).

Insufficient knowledge, skills, experience etc. of an employee can be demonstrated upon performance of certain tasks, but this can also be established on the basis of results of tests, interviews, exams etc. (e.g. the Supreme Court, civil matter No. 3-2-1-46-99 - RT III 1999, 15, 152).

Lack of a document

Lack of a document as a ground for termination of employment contract is accepted in connection with such positions and jobs where a certificate regarding the necessary qualifications or education (driving licence etc.) is a mandatory precondition for such work pursuant to legislation. Thereat it is not important whether a certificate regarding the necessary qualifications or education of the employee was missing already upon conclusion of an employment contract or the employee was deprived of it for some reason or other during employment (right to drive a vehicle or pilot an aircraft as a special right has been withdrawn, not receiving a qualification certificate in the course of a periodic evaluation etc.). Lack of a document can be a ground for termination of employment contract even if it does not prove the qualifications but is a mandatory precondition upon conclusion of employment contract and during employment pursuant to legislation (a work permit upon hiring an alien in Estonia etc.).

Insufficient skills

The Language Act regulates the requirements for proficiency in the Estonian language and the use of foreign languages in employment relationship. These are:

1) Public servants and employees of state agencies administered by government agencies and of local government agencies, and employees of legal persons in public law and agencies thereof, and the employees of their bureaus must be able to understand and shall use Estonian at the level which is necessary to perform their service or employment duties (subsection 5 (2) of the Language Act).

2) The use of Estonian by companies, non-profit associations and foundations, by employees thereof and by sole proprietors is regulated by the state if it is in the public interest, which, for the purposes of the Language Act, means public safety, public order, general government, public health, health protection, consumer protection and occupational safety. The establishment of requirements concerning proficiency in and use of Estonian shall be justified and in proportion to the objective being sought and shall not distort the nature of the rights which are restricted (subsection 2^1 (2) of the Language Act).

Description of the level of language proficiency is given in the Language Act (subsection 5 (5)).

Estonian language proficiency at the basic level (limited oral and elementary written proficiency in Estonian) is required from:

- drivers of public transport vehicles (except masters of ships and aircraft pilots) and locomotive and train drivers;
- service and sales staff whose duties include providing information concerning the characteristics, price, origin and conditions for use of the offered goods or services and which, in the public interest must be done in Estonian;
- workers providing personal care.

Estonian language proficiency at the intermediate level (oral and limited written proficiency in Estonian) is required from the following employees:

- service and sales staff who provide compulsory insurance services provided for by law and who advise clients in this field;
- service and sales staff who are engaged in selling or handling goods which may be hazardous to the life and health of persons, public safety or the environment and who advise clients in this field;
- heads and deputy heads and teachers (except teachers of the Estonian language and of subjects taught in Estonian) of private schools providing pre-school, basic, secondary or higher education and whose duties include ensuring the safety of pupils and students in the private school;
- health associate professionals whose duties include communication with patients and communication of information;
- rescue workers;
- harbour pilots;
- security staff whose duties are related to ensuring public order or who carry weapons or use special equipment in connection with the performance of their duties.

Estonian language proficiency at the advanced level (oral and written proficiency in Estonian) is required from teachers of the Estonian language and of subjects taught in Estonian; doctors, pharmacists and psychologists; masters of ships and aircraft pilots (except harbour pilots) employees who organise air, sea or railway traffic and communicate corresponding information.

The requirements for proficiency in the Estonian language do not apply to persons who work in Estonia temporarily as foreign experts or foreign specialists (subsection 5 (6) of the Language Act).

Proficiency in the Estonian language shall be evaluated by state examination committees using Estonian language proficiency examinations. Persons who have acquired basic, secondary, vocational secondary or higher education in Estonian are not required to take an Estonian language proficiency examination. Persons who have passed an Estonian language proficiency examination shall be issued a certificate of proficiency in the Estonian language (section 5^1 of the Language Act).

The analysis of case law shows that if termination of employment contract is based on insufficient proficiency in the Estonian language, the courts, first of all, shall verify whether insufficient proficiency in the Estonian language prohibited the employee to perform his or her tasks according to the requirements (the Tallinn City Court, civil matters No. 2/4/3075/98; No. 2/4/30-744/98; No. 2/4/30-605/98; the Tallinn Court of Appeal, civil matters No. II-2/362/97, II-2/181/99 etc.).

Insufficient proficiency in the Estonian language shall be the reason for termination of an employment contract on condition that it will prohibit performance of tasks according to the requirements (the Tallinn City Court, civil matter No. 2/4/29-5492/98). At the same time, it should be borne in mind that pursuant to the Employment Contract Act Amendment Act from 14 June 2000 an employer can require of the employee development of his or her professional knowledge in foreign languages if this is necessary for the performance of his or her work and if the employer has provided the employee with the opportunity therefore.

Insufficient communication skills may be a reason for termination of employment contract concerning employees whose tasks are connected with active communication (service staff, sales staff, sales agents, publicists, pedagogues, educators etc.). In this context, it is important to ascertain that an employee, due to his or her personal characteristics (excessive modesty, timidity, lack of ability to get in touch with others or excessive aggressiveness in communication etc.), is not able to use his or her professional knowledge and skills and therefore is not able to perform his or her tasks successfully.

Professional knowledge

An employer has right to terminate an employment contract upon unsuitability of employee if the employee fails to develop his or her professional knowledge, but this on condition that this is necessary for the performance of his or her work and if the employer has provided the employee with the opportunity therefore pursuant to the agreed procedure. Thus refusal to develop his or her professional knowledge may be a reason for termination of employment contract only in case their lack will prevent the required performance of the work and the employee was given a chance to acquire them (the employer enabled to participate in corresponding courses etc.).

Coping with work

Not coping with work may be caused by breach of duties of the employee. If the employee breaches his or her duties, he or she is unsuitable in the meaning of Section 101. Unsuitable is an employee who follows an employer's instructions pertaining to work within his or her skills and capabilities but nevertheless the results do not meet the requirements or he or she is not able to perform his or her duties at all due to insufficient knowledge or skills (e.g. he or she is not able to communicate with clients in foreign language).

It appears from case law judgments that in case of disputes which have been arisen from termination of employment contract due to unsuitability of employee, employment contracts have been terminated on different grounds including facts proving insufficient professional skills and ignorance of discipline. Termination of employment contract is lawful if any of the facts will be established that confirm unsuitability of an employee. Unfortunately, the employer often refers only to breach of duties of the employee. In latter case, termination of employment contract will be declared unlawful.

If not coping with work is connected with the deterioration of the health of an employee, it is important to make sure whether the deterioration of the health is temporary or if it is of a continuous nature. A decision shall be made by a doctor. In case of temporary deterioration of the health of the employee, transfer to the other position or easement of working conditions may be applied. The employer has the right to terminate an employment contract if the deterioration of the health is of continuous nature and hinders or precludes continuation in the current position of the employee.

Termination of employment contract upon breach of duties

Upon termination of employment contract on the ground of clause 86 6) (upon breach of duties) the employer shall follow section 103 of the Employment Contracts Act.

§ 103. Termination of employment contract upon breach of duties or commitment of act of corruption by employee

(1) An employer has the right to terminate an employment contract on the basis prescribed in clause 86 6) if a wrongful act impeded the work and the employee is subject to a disciplinary punishment which has not expired.

(2) An employer may terminate an employment contract for the first severe breach of duties by an employee.

General duties of employees are listed in Sections 48 and 50 of the Employment Contracts Act. In addition to this, duties of employees pertaining to work are also specified in other acts (the Working and Rest Time Act, the Holidays Act, the Occupational Health and Safety Act etc.) and legislation. Duties of employees are included in internal work procedure rules, determined by the employer, collective agreement or employment contracts, and job description.

Employment contract terms which are less favourable to employees than those prescribed by law, administrative legislation or a collective agreement are invalid. Terms established by unilateral decisions of employers which are less favourable to employees than those prescribed by law, administrative legislation, collective agreements or employment contracts are also invalid. Thus an employee is merely obliged to comply with legal instructions of the employer, meet his or her obligations under the employment contract in conformity with legislation and follow the rules laid down by the employer.

Pursuant to section 2 of the Employees Disciplinary Punishment Act disciplinary offences are wrongful non-performance or unsatisfactory performance of duties specified in sections 48 and 50 of the Employment Contracts Act by an employee and inebriation while at work. In addition, disciplinary offences are acts by an employee that have caused distrust of the employer (subsection 104 (2) of the Employment Contracts Act) and indecent acts of an employee (subsection 105 (2) of the Employment Contracts Act). As there has been referred in Sections 48 and 50 of the Employment Contracts Act to the fact that an employee is obliged to meet the requirements provided for in other legislation, collective agreements or employment contracts in addition to these specified in the Employment Contracts Act, then breach of obligations laid down in any other lawful manner or breach of agreed obligations, shall be considered to be a disciplinary offence.

Termination of employment contract is legitimate if this concerns a wrongful act which impeded the work and the employee is subject to a disciplinary punishment which has not expired. This refers to two conditions:

- an employment contract can be terminated for a considerable wrongful act;
- an employee has already been subject to a disciplinary punishment imposed by the employer which has not expired by the time of termination of the employment contract.

Labour dispute resolution bodies have right and obligation to assess circumstances of a wrongful act and their effect on the employer. Thereat they may come to a conclusion that termination of an employment contract was illegitimate because of breach of proportionality requirement and declare termination of the employment contract unlawful together with the legal consequences arising therefrom.

A disciplinary punishment expires if no new disciplinary punishment is imposed on the employee within one year. The period of one year shall be calculated after the date that the punishment was imposed. Therefore, termination of an employment contract will be considered lawful pursuant to subsection 103 (1) if the wrongful act of the employee shall be assessed as a material breach of duties and the employment contract will be terminated within one year after the date that the punishment was imposed.

It appears from case law judgments that in most cases employers have terminated employment contracts on the basis of clause 6 of section 86 and subsection 103 (2), this means for the first severe breach of duties by an employee. Severe breach of duties is not defined in the Act. This is not even possible as failure to perform or unsatisfactory performance of the duties may cause irreparable damage to the employer, in another situation this may not cause remarkable damage to the employer (e.g. coming late to work, unauthorized absence from work, leakage of business secrets, not notifying the employer of impediments to work etc.). These wrongful acts have been listed in the Seafarers Act (see comments below).

The following acts may be qualified by court as severe breach of duties:

- Leaving the workplace during working time without permission or unauthorized absence from work during the whole working day depending on the consequences of the leave or absence (the Tallinn City Court, civil matters No. 2/4-30-6934/97; 2/4/28-6345/98; the Tallinn Court of Appeal, civil matter No. II-2/249/99). (E.g. leaving the workplace during working time without permission of the employer and making unauthorized changes in a working shift by a security guard is qualified as a severe breach of duties because such a behaviour may result in a emergency situation where all activities of the enterprise can be paralysed (the Tallinn city Court, civil matters No. 2/4/30-4923/97; 2/4/288-6485/99).

- Repeated breaches of cash rules, whereat experience of an employee to operate cash register shall be taken into account. In the event of infringement of cash rules by an employee with great experience the act will be considered a severe breach of duties (the Tallinn Court of Appeal, civil matter No. II-2/118/98). In case of an employee with little experience with a short length of employment, a different assessment can be given to the same breach.

- Being under the influence of alcohol at a workplace; whereat in case of this wrongful act, no special attention is paid to the degree of intoxication neither to the consequences by courts. It is important that intoxication and consumption of strong drinks will be proven. If this is proven termination of employment contract will not be declared unlawful (the Tallinn City Court, civil matters No. 2/4/49-5957/97; No. 2/4/28/994/2000; No. 2/5/32-356/2000; the Põlva County Court, civil matter No. 2-233/97; the Lääne-Viru County Court, civil matter No. 2-374/97; the Tallinn Court of Appeal, civil matters No. II-2/115/99; No. II-2/829/99; the Viru Court of Appeal, civil matter No. II-2-50/2001).

Pursuant to subsection 50 (6) of the Employment Contracts Act the employee is obliged to maintain the business and production secrets of the employer and not compete with the employer. Breach of this obligation is considered a wrongful act, by the way a severe breach of duties, depending on the consequences, if the employer has determined which information concerning employer's business and production activity is considered the business and production secrets. If an employee has been imposed, pursuant to the employment contract, a general obligation to maintain the business and production secrets of the employer and the employee will release to the competitor of the employer such information which will not endanger the business and production of the employer and which has been released to the competitors even earlier in conformity with good practice, then it cannot be considered a severe breach of duties (the Tallinn Court of Appeal, civil matter No. II-2/493/01).

Termination of an employment contract on the basis of clause 86 6) is justified upon continuous breach of duties, if the employee has already been imposed a disciplinary punishment for the breach, but nevertheless the employee will not commence performance of duties. Pursuant to subsection 9 (2) of the Employees Disciplinary Punishments Act continuation of an offence after imposition of a disciplinary punishment is a new offence and a disciplinary punishment may be imposed on the employee therefore, including termination of the employment contract (see judgment of the Civil Chamber of the Supreme Court of 18 October 2000 - RT III, 2000, 24, 267).

Pursuant to section 54 of the Seafarers Act a severe breach of duties of employment in seafarer shall be:

- intentional failure to arrive on the ship by the beginning of working time or by the time of departure of the ship, or failure to arrive on time due to gross negligence;

- leaving the ship during working time without permission;
- being on board the ship under the influence of alcohol or narcotic or toxic substances;
- bringing narcotic or dangerous substances on board the ship;
- being engaged in illicit trafficking;
- activities which actually endanger the ship or persons or cargo on board the ship.

In case of these breaches the labour dispute resolution bodies shall accept these wrongful acts as severe breaches of duties for which an employer has right to terminate seafarer's contract of employment.

Termination of employment contract upon loss of trust

Upon termination of employment contract on the ground of clause 86 7) (upon loss of trust in employee) the employer shall follow section 103 of the Employment Contracts Act.

§ 104. Termination of employment contract upon loss of trust in employee

(1) An employer has the right to terminate an employment contract on the basis prescribed in clause 86 7) with any employee in whom the employer loses trust.

(2) An employment contract may be terminated if an employee has:

1) caused a deficit in, damage to, or destruction, loss or theft of the property of the employer, or if he or she has stolen the property of a co-worker at the workplace;

2) endangered the preservation of the property of the employer;

3) caused distrust of the employer by consumers, clients or business partners.

Termination of an employment contract on the ground in question is permitted if an employee has caused or created a threat of material damage to the employer by a wrongful act. The burden of proof of the fault of the employee lies with the employer. Causing distrust of the employer by consumers, clients or business partners shall also be connected with material damage or with a threat of it. Thus a more narrow interpretation shall apply to the present Section as regards loss of trust. E.g. the Tallinn Court of Appeal with its judgment in civil matter No. 2-2/1483/02 has declared termination of an employment contract unlawful, because the employer was not able to connect absence from work of an employee with a particular situation as a result of which had been caused or created a threat of material damage to the employer (or the employer did not submit any proof of a wrongful act which caused or created a real threat of material damage).

Upon applying the ground in question, the principal of proportionality shall be followed, i.e. a punishment shall correspond with the gravity of the offence and with the circumstances of its commission. Thus creation of discretionary material damage (a small shortage, low cost of repairs of any tool spoiled by an employee etc.) is not a sufficient ground for termination of an employment contract due to loss of trust. At the same time, when an employee causes material damage to the employer systematically, although in small amounts (e.g. abstracting money from cash register by sums of EEK 30 to 40), termination of the employment contract upon loss of trust is lawful (the Tallinn Court of Appeal, civil matter No. II-2/696/99).

The reason for termination of employment contracts cannot be wrongful acts which are not connected with employment relationship. If an employee causes or creates a threat of material damage to a third party (except the property of a co-worker at the workplace) then termination of employment contract upon loss of trust is unlawful (an employee leaves a shop without paying for goods, acquires fraudulently property of third parties, establishment of tax fraud etc.).

In addition to the above said, we bring the following samples which courts have accepted as situations which have been considered as reasons for termination of employment contracts upon loss of trust in employee:

- If an employee encourages a client of the employer to buy a service from a competitor of the employer or is employed by a competitor without the employer's permission (the Tallinn City Court, civil matter No. 2/4/27-3843/98; the Tallinn Court of Appeal, civil matter No. II-2/267/99).

- Falsification of the signature of chief accountant is a wrongful act which shall be the basis for termination of an employment contract even if the property of the employer was not attempted to acquire with help of the fictitious signature, because the act will create a threat of acquisition of property of the employer (the Tallinn City Court, civil matter No. 2/4/220-4017/97).

- Performance of an unauthorized transaction with a credit card, violation of requirements of the procedure for acceptance of credit cards, damaging reputation of the employer in the eyes of a business partner and as a result of which drawing upon a credit from the employer without his or her permission (the Tallinn City Court, civil matter No. 2/5/30-461/14/2000).

- If the employee fails to perform technical inspection of a vehicle belonging to the employer and operation of the vehicle shall continue, then the employee endangers the preservation of the property of the employer (possibility of a technical defect or traffic accident) (the Tartu District Court, civil matter No. II-2-156/2001).

- An unreasonable cancellation of a planned operation in the hospital can be a reason for loss of trust, if this will incur expenses to the hospital and lead to distrust of the patient towards the hospital (the Tallinn Court of Appeal, civil matter No. II-2/335/2000).

Samples of situations which courts have not considered as reasons for termination of employment contracts upon loss of trust in employee:

- If an employee passes a confidential information of the employer to the co-workers and he or she is not aware of its confidentiality, then transmission of the information cannot be a ground for termination of employment contract due to loss of trust (the Tallinn Court of Appeal, civil matter No. II-2/422/2001).

- Leakage of information to the competitors of the employer, concerning the activities of the employer, known to the employee, shall not be considered to be a wrongful act which could cause loss of trust in an employee, despite of the fact that the employee had an obligation under the employment contract to maintain information, if no damage was caused thereby to the employer and no threat was created to the preservation of the property of the employer neither distrust of the employer by business partners was caused (the Tallinn Court of Appeal, civil matter No. II-2/493/2001).

- Suspecting an employee in committing a theft of the property of the employer, if this will not be proven, cannot be a ground for termination of an employment contract even if hints concerning theft have been made repeatedly and this seems to be probable (the Tallinn City Court, civil matter No. 2/4728/99).

Termination of employment contract for indecent act

Upon termination of employment contract on the ground of clause 86 8) (indecent act of employee) the employer shall follow section 105 of the Employment Contracts Act.

§ 105. Termination of employment contract for indecent act

(1) Employers have the right to terminate employment contracts on the basis prescribed in clause 86 8) with employees who are teachers, instructors of minors or others whose duties are to teach or educate youth, and support staff of local government administrative agencies.

(2) Acts which are in contrary to generally recognised moral standards or which discredit an employee or employer is indecent. An indecent act also constitutes the basis for termination of an employment contract if it is committed outside of the performance of duties.

General features of an indecent act are:

- the act is in conflict with the generally recognised moral standards;

- the act discredits the employee and the employer. As a rule, these features are connected with each other.

Generally recognised moral standards are the rules of conduct accepted in a society which unfortunately are subject to change. Thus it is a question of fact whether an act is in conflict with such rules of conduct or not.

An indecent act may constitute the basis for termination of an employment contract with all kinds of specialists of educational institutions, lecturers, teachers and other pedagogical specialists. Upon determination of the circle of persons, it does not matter, whether a school or educational institution is held by state, local government, society, foundation or other legal or natural person. Likewise, it is of no importance whether these persons are elected by way of competition or are employed under employment contract.

Support staff of state and local government administrative agencies is included in the circle of persons with whom employment contract can be terminated for an indecent act as they also are obliged to maintain authority of the state and local government, likewise officials pursuant to Public Service Act. E.g. the Supreme Court has considered termination of employment contract with a member of support staff who used the telephone of the employer for calling to phone sex line, to be lawful. Such a behaviour of the employee will discredit both the county government and the Republic of Estonia and is, pursuant to Section 105 (2) of the Employment Contracts Act an indecent act (see judgment of the Civil Chamber of the Supreme Court of 27 February 2003, No. 3-2-1-16-03).

The titles of support staff positions of public service are determined in the State Public Servants Official Titles and Salary Scale Act. A member of support staff of state public servants is, for example, a data entry clerk, bookkeeper, cashier, photocopy clerk, secretary, receptionist, setter, motor vehicle driver, cleaner. Support staff positions of local governments are laid down within the staff of the state administrative agencies.

Pursuant to case law, it is an indecent act when a teacher uses brutal and humiliating expressions when communicating with pupils, beats and taunts them, is intoxicated in a public place, appropriates money from pupils by fraudulent means etc. (E.g. an employment contract with an educator of a sanatorium boarding school was terminated on the ground that he had slapped in the face of a pupil from the third class for breaching school discipline, at the same time he shook and threatened to hit another pupil (the Valga County Court, civil matter No. 2-371/2000). An employment contract shall be terminated with the named persons even if they are caught stealing, behaving like a hooligan etc.

Termination of employment contract due to age of employee

Upon termination of employment contract on the ground of clause 86 10) (age of employee) the employer shall follow section 108 of the Employment Contracts Act.

§ 108. Termination of employment contract due to age of employee

An employer has the right to terminate the employment contract of an employee on the basis prescribed in clause 86 10) if the employee has attained sixty-five years of age and he or she has the right to receive full old-age pension.

At the same time we note that on 8 February 2006 the Parliament adopted the Employment Contracts Act Amendment Act which repealed termination of employment contract due to age of employee. The amendment entered into force as of 4 March 2006.

Termination of employment contract upon lay-off of employees

Upon termination of employment contract on the ground of subsection 86 (3) (lay-off of employees) the employer shall follow sections 98 and 99 of the Employment Contracts Act.

§ 98. Termination of employment contract upon lay-off of employees

(1) An employer has the right to terminate employment contracts on the basis prescribed in clause 86 3) upon a decrease in work volume, reorganization of production or work, reinstatement of an employee in a previous position and in other cases which require termination of the work. The refusal by an employee to have the standard for working time increased or decreased is not deemed to be a circumstance which requires termination of the work.

(22.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 256)

(2) Prior to termination of an employment contract due to a lay-off, the employer is required to offer another position to the employee if possible.

(3) An employer is required to re-employ an employee who has been released due to a lay-off within six months if the employee so desires, if the employer has vacant positions.

In all cases listed in paragraph 1 the employment terminates for the employee on the conditions agreed with him or her. Employment may terminate because the employer has decided to decrease production or supply of services, but the work may also terminate as a result of increase of efficiency as a result of which the necessary work shall be done with a smaller number of employees. In the latter case the work volume may remain the same or even increase, it is essential, that the employer shall decrease the number of employees.

Agreed work also shall terminate upon reorganization of work, creation of new jobs, closure of unnecessary, alteration of circle of tasks and job descriptions for employees by the employer. In that case the volume of work may remain the same or increase because the reason for termination of an employment contract due to a lay-off is termination of work on the conditions agreed upon in the employment contract. Reorganization may result in part-time working time for an employee, change in location of workplace etc.

Lay-off situation emerges even upon reinstatement of an employee in a previous position and another employee had been hired on his or her position or job.

Pursuant to subsection 59 (5) of the Employment Contracts Act amendment of an employment contract is only permitted by agreement of the parties. Thus, if the employer will wish to increase or decrease standard for working time of the employee, the employer shall apply for the consent of the employee. The refusal by an employee to have the standard for working time increased or decreased is not deemed to be a circumstance which requires termination of the work and this cannot be the ground for termination of an employment contract due to a lay-off. If amendment of standard for working time of an employee is inevitable, but the employee will not consent to this, termination of an employment contract due to a lay-off with the employee is permitted because in such a case the work will not terminate as a result of refusal of the employee but as a result of reorganization of the work.

Companies and natural persons set the number and personnel of employees in conformity with the objective of their activities. As a rule, upon settlement of individual labour dispute, the subject of the dispute cannot be a question whether the employer has right to decrease the volume of work and the number of workers or production and to reorganize the work. This question can be the subject of negotiations between the social partners upon conclusion of a collective agreement. In case a corresponding agreement has not been achieved, an employee cannot contest the need for lay-off. This decision is made by the employer.

In case of dispute the employer is obliged to prove that lay-off of jobs had taken place. Upon settlement of a dispute a labour dispute resolution body and court are obliged to establish the grounds for lay-off as provided in the Act. The analysis on court decisions concerning disputes arising from lay-off shows that labour dispute resolution bodies do not interfere in finding out expediency of implementation of lay-off but inspect observance of conditions provided for lay-off.

The employer is obliged to offer the employee all vacant jobs and positions that fit his or her qualification and which the employee can manage to perform his or her duties. Even such jobs shall be offered which do not require special qualification, but the required tasks of which the employee is able to perform. In case of several vacant jobs the employee has right to choose the most congenial work (the Tallinn City Court, civil matters No. 2/5-250-7933/2000; No. 2/3-33/2974/2000 etc.). Termination of an employment contract shall be declared unlawful if the employer shall not allow the employee to choose the most congenial work among vacant jobs or positions and he or she shall be offered a job which the employee cannot accept because of lack of required qualification or distance of the available work from the person's residence (the Viru District Court, civil matter No. II-2-234/2000).

Upon the termination of employment contracts due to lay-offs with several employees at the same time the employer has right to decide to whom of them which jobs and positions shall be offered (the Tallinn Court of Appeal, civil matter No. II-2/127/2000). At the same time the court shall still establish whether the employer has followed the principle concerning offer of the most congenial work to each employee. If this is not the case the offer of the other work will turn out to be a formality as the employees cannot accept the offer of the employer. If a vacant job or position is congenial to many employees whose employment contract shall be terminated due to lay-off and the employer will offer this to one of them who waives it, the employer shall enable transfer to another employee from among the rest of employees whose employment contract shall be terminated due to lay-off who most satisfies the requirements set for employment in a vacant job or position.

An employee cannot demand his or her transfer to another job which he or she will not manage to perform his or her duties and where commencement of employment would require retraining as subsection 2 does not impose obligation to organise retraining on the employer in order to avoid termination of employment contracts due to lay-offs (the Tallinn Court of Appeal, civil matter No. II-2/127/2000). Likewise, an employee cannot demand his or her transfer to a job where command of official language is required, but the employee is lacking the adequate knowledge of language. An issued certificate on language skill by itself does not prove command of Estonian language and does not mean that the employer commits himself or herself to offer a vacant job to the employee whose employment contract shall be terminated due to lay-off, if it is established that the employee is not able to draft letters in Estonian language and is not able to communicate with the clients in Estonian (the Tallinn Court of Appeal, civil matter No. 2-2/102/2003).

Upon the termination of employment contracts due to lay-offs the employer is obliged to offer an employee another job in all his or her undertakings (business entities), as the Act does not limit this obligation with the undertaking where the employee is employed, but it is a general obligation of the employer, despite of location of vacant jobs or positions. Thus another job shall be offered in the undertakings located in the other regions.

It is a different situation if an employee is employed in a government agency or in a municipal body. The Supreme Court has taken its stand that municipal bodies are clearly separated from each other and are independently organised, and the head of a municipal body is a legal representative of the local authority in employment relationship. As a result of this the head of a municipal body is not entitled to offer job to the employee in another municipal body (the Supreme Court, civil matter No. 3-2-1-10-03 - RT III 2003, 17, 163). Thus, upon the termination of an employment contract due to lay-offs, the state or a city or a commune is not obliged to offer job to the employee in all its bodies, but only in this body where the employee currently is employed.

Upon arranging (reorganisation of work) jobs and positions and their respective functions, an employer shall first of all provide the active employees with jobs and first after that it is possible to fil new arranged positions by way of competition. Giving possibility to participate in the competition shall not be regarded as discharge of obligation involving offer of another job. If a labour dispute resolution body shall establish that the employee whose employment contract had been terminated due to lay-off could continue to work, taking into account his or her qualification, abilities and skills, in a job or a position formed as a result of reorganisation of work by the employer, but he or she was merely given a chance to participate in the competition to fil the job or position where he or she turned out not to be elected, the body shall declare termination of employment contract unlawful with implementation of all claims arising from this (the Tallinn City Court, civil matters No. 2/4-49-6932/97, No. 2/4-29-104/99, No. 2/4-30-129/99, No. 2/4-28-3264/2000; the Tallinn Court of Appeal, civil matter No. II-2/81/2000).

Termination of employment contract shall be declared unlawful if the employer shall make an impression of impossibility regarding offer of another job (the Tallinn City Court, civil matter No. 2/33-2974/2000). In order to avoid the need to offer another job to the employee whose employment contract shall be terminated due to lay-off, the employer, in this case, shall make changes in the nomenclature of positions, shall arrange new jobs and positions, the tasks of which are very similar to these positions employed by the persons whose employment contract shall be terminated later due to lay-off. Before termination of current employment contracts the new formed jobs and positions shall be filled with new employees and thereafter the employment contracts with employees who had been employed earlier shall be terminated. In the described case the employer had opportunity to offer another job to the employees whose employment contract shall be terminated due to lay-off, but the employer himself or herself made it impossible with his or her activity.

Obligation involving offer of another job shall be regarded discharged if the employer offered the employee another job after the employee was notified about termination of employment contract due to lay-off. If the employer offered the employee another job under the amendment of terms of employment contract and the employee refused it not knowing that his or her refusal may result in termination of employment contract due to lay-off, then termination of employment contract due to lay-off shall be declared unlawful if a labour dispute resolution body shall establish that the employee had accepted another job if he or she new that termination of employment contract due to lay-off would follow his or her refusal (see judgment of the Civil Chamber of the Supreme Court of 14 March 2001, No. 3-21-22-01 - RT III 2001, 10, 111).

Pursuant to subsection 98 (3) the employee is entitled to claim his or her re-employment in the case the employer shall form new jobs or current jobs shall be vacant after lay-off. In such case a new employment contract shall be concluded with the employee. The employee can claim conclusion of a new employment contract within six months after the date of termination of the employment contract.

An employee has no right to demand termination of an employment contract to be declared unlawful if there was no respective vacant position during the time of termination of employment contract due to lay-off. In case of congenial vacancy, the employee shall submit a demand for conclusion of employment contract and not to claim to declare termination of an employment contract unlawful (the Tallinn Court of Appeal, civil matter No. 2-2/1077/2002).

More specifically is the lay-off issue regulated in seafarers (section 55 of the Seafarers Act). If a ship ceases to be seaworthy or in the event of shipwreck, the ship owner has right to terminate the seafarer's employment contract due to lay-off with a member of the crew if the ship owner is not able to offer the member of the crew a job on another ship within his or her enterprise. At the same time the ship owner is not obliged to notify of lay-off in advance. If a ship ceases to be seaworthy as a result of a breakdown, the ship owner shall notify a member of the crew of termination of his or her seafarer's employment contract five days in advance.

§ 99. Preferential right to remain at work upon lay-off

(1) Upon the termination of employment contracts due to lay-offs, the representatives of employees have a preferential right to remain at work, followed by the employees who work for such employer as their principal job.

(08.03.2000 entered into force 07.04.2000 - RT I 2000, 25, 144)

(2) Of the persons who are employed in a principal job, preference is given to those who have better performance results.

(3) In the case of equal performance results, preference is given to employees who have contracted an occupational disease or received a work injury by the fault of the employer; who have worked for the employer longer; who have dependants; or who are developing their professional skills and expertise in an educational institution which provides special education.

Upon lay-off, the employer shall prefer a representative of employees, in the meaning of remaining at work, and his or her performance results are not compared with those of persons working in the same profession or specialty. A representative of employees is in preferential situation even if the performance results of those who will be dismissed due to lay-offs are better.

Employees are represented by a representative of employees who is elected by the members of a union of employees of an undertaking or institution or by employees who do not belong to a union of employees. A representative can be elected among the employees working by the employer in question. If there has been elected several representatives of employees by the employer undertaking or institution, all representatives of employees have a preferential right to remain at work upon lay-off. If the employer shall choose between several representatives of employees in order to find out the persons who shall be dismissed due to lay-offs, he or she shall submit a written request to an organisation representing employees in order to obtain an opinion concerning the termination of the employment contract with the representative of employees.

Likewise a member of the board of trade union is a representative of employees whose employment contract may be terminated only with the consent of the labour inspector. If provisions on termination of an employment contract with representatives of employees are laid down in addition in a collective agreement, the employer is obliged to follow the corresponding provision in the collective agreement. E.g. it may provided in a collective agreement that upon termination of employment contract with the members of the board of trade union on the initiative of an employer the consent of the board of trade union is necessary (the Tallinn Court of Appeal, civil matter No. 2-2/129/03).

Upon comparing of performance results of employees, courts take into account higher qualification of an employee, his or her professional background, better performance results of work tasks, experience and the level of vocational skills of an employee, and other objective factors (see judgment of the Tallinn City Court, civil matter No. 2/4/49-4518/97; judgment of the Viru District Court, civil matter No. II-2-67/99).

Comparing of working results of employees is necessary within the same profession or specialty or positions. The employer shall not compare employees of all undertakings active in performance of similar tasks, the employer, upon comparing employees, may content himself or herself with one undertaking or unit where lay-off shall take place (see judgment of the Civil Chamber of the Supreme Court of 14 March 2001, No. 3-21-22-01 - RT III 2001, 10, 111).

The circumstances listed in subsection 99 (3) shall be taken into account upon termination of an employment contract due to a lay-off only in the event it is not possible to make a choice on the basis of working results. These circumstances are equal, none of them is preferential. If one employee has a dependant and the other has worked for the employer longer, then the employer may terminate an employment contract due to lay-offs with one of the employees at his or her discretion. If the question concerning finding out the employees with whom employment contracts due to lay-offs shall be terminated, is agreed in the collective agreement, the employer shall follow the provisions of the collective agreement.

Question

The Committee also points out that there are reasons for termination of the contract of employment which are unrelated to the wishes of one of the parties to the contract. These include:

1) a criminal conviction making it impossible for the employee to continue his or her current employment Section 112, first sentence. The Committee asks what situations are covered by this.

2) imprisonment of the employee (Section 112 second sentence). The Committee underlines that a judicial sentence of imprisonment for offences related to a person's employment may be a valid reason for termination of employment under Article 24 of the Revised Charter. However such a sentence for offences not related to a person's employment may only be deemed a valid reason for termination of employment if the length of the custodial sentence is such that a continuation of the employment relationship is impossible. In this regard, the Committee asks how Section 112 second sentence is interpreted in practice.

Section 112 of the Employment Contracts Act provides the following:

§ 112. Termination of employment contract upon entry into force of conviction by court

(1) An employment contract is terminated upon the entry into force of a conviction by a court which imposes a criminal punishment on an employee which makes it impossible for him or her to continue his or her current employment.

(2) If an employee is taken into custody, his or her employment contract is terminated after the entry into force of a conviction by a court as of the date on which the employee is taken into custody.

Pursuant to subsection 112 (1) the employer terminates an employment contract with the employee only in case a punishment has been imposed on the employee which makes it impossible for him or her to continue his or her current employment. Here belongs e.g. imprisonment, deprivation of the right of employment in a particular position. Pursuant to paragraph 2 of the same section the matter does not concern imprisonment but the case where the employee has been taken into custody before the imposition of a punishment. In such a case the employment contract with the employee shall be terminated on a retroactive date or as of the date on being taken into custody. Paragraph 2 is a guideline for the employer as from which date the employment contract shall be terminated in case the employee has been taken into custody before the imposition of a punishment.

Question

The Committee considers that national legislation should contain an express safeguard, in law or case law, which protects employees against retaliatory dismissal if they turn to the courts or another competent authority to enforce their rights. It notes that retaliatory dismissal is not expressly prohibited in Estonian law but, since it is not included with the legitimate forms of dismissal, the Committee infers that it will count as improper dismissal defined in Section 28 of the 1995 Individual Labour Disputes Resolution Act, as amended in 2003, and that as such it can be challenged before employment commissions or the courts (see below). However, the Committee requests confirmation of this interpretation and asks for decisions and case law judgments in support of it.

We hold it necessary to call the Committee's attention to the fact that pursuant to the Estonian labour law, the regulations concerning termination of employment contract on the initiative of the employer has been established on the principle according to which the employer is permitted to terminate employment contract only on the grounds clearly listed in the Act. Therefore any other ground, used by the employer aimed at terminating employment contract and which is not based on law, is unlawful.

The so called closed bases principle, unlike many other states, is characteristic to the regulation of termination of employment contracts. The aforesaid is supported by Section 28§1 of the Individual Labour Dispute Resolution Act according to which termination of an employment contract is unlawful if the circumstances which constitute a lawful basis for termination of an employment contract are absent. In other words, it is fundamental, that all grounds that are listed in the Act are permitted; all other grounds concerning termination of employment contracts which are not listed in the Act are prohibited. E.g. an employer wishes to terminate an employment contract with the employee for the reason the latter is participating or has participated in a procedure initiated against the employer; the employer can dismiss the employee on a ground listed in the Act. As much as the ground for termination of employment contract is fictitious and does not correspond to the actual reason, the court shall provide an assessment on termination of employment contract in the dispute to find out whether the ground for termination of employment contract corresponded to the actual situation or whether the ground used was lawful or not. If the actual reason for dismissal was other than listed in the Employment Contracts Act, termination of employment contract shall be declared unlawful.

Question

In addition to its earlier question on the interpretation of Section 86§4, the Committee asks for the next report to explain the legal consequences of absence on grounds of illness.

Pursuant to subsection 91 (1) of the Employment Contracts Act, termination of an employment contract is prohibited on the initiative of an employer during the temporary incapacity for work of the employee, including illness, injury. Termination of an employment contract during the period indicated on a certificate of incapacity for work is permitted only due to the long-term incapacity for work of an employee. An employer has right to terminate an employment contract due to the long-term incapacity for work of an employee during time that an employee is incapacity for work if the employee has been absent from work due to incapacity for work for more than four consecutive months or the employee has been absent from work due to incapacity for work for more than five months during a calendar year.

Question

The Committee would like to have more detailed explanation of the system of proof and specifically asks what happens when there are doubts about the validity of the reason for dismissal.

A dispute arising from the Employment Contracts Act is a dispute under private law, the settlement procedure for which is characterized by equality of the parties and the principle of adversarity. Pursuant to subsection 5 (2) of the Code of Civil Procedure, the parties have equal right and opportunity to found their claim and to deny or object the statements submitted by the opposite party. The party determines himself or herself which facts he or she submits in order to found his or her claim and with which evidence he or she will prove these facts. Each party shall prove the facts on which the claims and objections of the party are based, unless otherwise provided by law. Evidence shall be submitted by the participants in a proceeding. A court may propose to the participants in a proceeding that they submit additional evidence. (section 230 of the Code of Civil Procedure). The court shall evaluate all evidence from all perspectives, thoroughly and objectively pursuant to law and decides in conformity with its conviction whether the statement submitted by the participant in the process is substantiated or not, taking into account, *inter alia*, agreements of the parties concerning the evidence. No evidence shall have predetermined weight for a court, unless otherwise agreed

Although labour dispute is the dispute concerning private law and is subject to the rules concerning disputes of general civil rights, as inferable from the aforesaid, it is noticeable that the judgments take into consideration the employee as traditionally weaker party in the labour relationship. At the same time, it cannot be claimed that the principle of *in dubio pro labore* is a prevailing principle in settling labour disputes, since, first of all, the objective is to reach a fair decision.

Question

The Committee asks if the courts can insist on reinstatement even if the employer opposes it.

Right to insist on his or her reinstatement has the employee. If the employee has submitted a claim of corresponding text to a court and termination of the employment contract has been declared unlawful, the court shall reinstate the employee in employment. The employee shall be reinstated even if the employer opposes it.

Question

The Committee asks whether the labour dispute resolution body takes into consideration the length of proceedings before it – and consequently the amount of earnings loss – in order to set the compensation referred to under Section 117§2 of the Employment Contracts Act.

Pursuant to Section 30 of the Individual Labour Dispute Resolution Act, a Labour Dispute Resolution Body shall take into account the circumstances of the termination of the employment contract and the nature of the offence when ordering compensation. Resulting from the previous provision Labour Dispute Resolution Bodies shall take into account all circumstances of the termination of the employment contract, but the maximum amount is six months' average wage.

In addition to the aforesaid compensation up to the extent of his or her six months' average wage the employee has right to claim for compensation for damage from the employer on the basis of the Law of Obligations Act. The amount of compensation for damage on the basis of the Law of Obligations Act is unlimited, one can claim compensation for patrimonial damage, including for loss of profit, as well as for non-patrimonial damage. Upon ordering payment of compensation to the employee, a court shall take into account, among other circumstances, duration of previous proceedings and the amount of forfeited wages.

[redacted]

ARTICLE 28 – RIGHT OF WORKERS' REPRESENTATIVES TO PROTECTION IN THE UNDERTAKING AND FACILITIES TO BE ACCORDED TO THEM

Question

The Committee asks in for confirmation if an employee representative's contract of employment is to be terminated for a reason other than one of those enumerated above, the consent of the Labour Inspectorate is not required. It also asks for example of the grounds on which an employee representative may be dismissed without the consent of the Labour Inspectorate.

Pursuant to subsection 94 (1) of the Republic of Estonia Employment Contracts Act, in most cases (i.e. cases referred to in clauses 86 2) to 8), 10) and 12) of the Republic of Estonia Employment Contracts Act) termination of employment contracts with representatives of employees is permitted during the term of authority of the employee and for within one year after termination of the authorisation only with the consent of the labour inspector. Pursuant to the above section, such a consent is not required only in three cases: upon liquidation of the enterprise (clause 1), due to the long-term incapacity for work of an employee (clause 9) and upon hiring an employee for whom the position is a principal job (clause 11).

Question

The report provides information on the protection of trade union representatives from measures short of dismissal, the Committee asks whether employee representatives, not trade union representatives are entitled to similar protection.

Yes, on the basis of section 94 of the Republic of Estonia Employment Contracts Act, aforesaid protection principles against termination of employment contracts shall be applied to all representatives of employees, involving all types of representatives of employees.

ARTICLE 29 – RIGHT TO INFORMATION AND CONSULTATION IN COLLECTIVE REDUNDANCY

Question

Whether the information about collective redundancies as previously given in writing reflects the dismissal procedure and whatever details concerning necessary support?

According to the subsection 89^2 (2) of the Republic of Estonia Employment Contract Act, the written notice which employees have to issue in the case of collective redundancy has to include the reasons for the collective redundancy, names of the employees whose employment contract will be terminated, the time period during which the redundancy takes place and the bases for calculating and paying the compensation. This information is required by law. However, employers may provide additional detailed information and benefits to employees. This is used in practice one way or the other (in some cases on the basis of the collective contract). In practice, redundant employees have the right to contact the Labour Inspectorate or Unemployment Insurance Fund in order to check whether the redundancy is legal or not and to receive information.

Since March 2005, the Estonian Unemployment Insurance Fund, which partially compensates for the expenses incurred as a result of collective redundancies, has implemented the "Responding to Collective Redundancy" project which is financed by the European Social Fund. Within this project, a new response service is being developed and piloted which would help the employees laid off during collective redundancies to find new work more quickly. The response service includes information dissemination to the redundant workers which usually takes place one month before the redundancy and job mediation activities. During an information event organised for the employees, representatives of the employer, Unemployment Insurance Fund, Labour Inspectorate, local department of the Labour Market Board and local government provide information on the redundancy process, employees' rights and obligations, labour market situation and support provided for finding a job.

The results of the pilot projects implemented so far prove the need for such a joint information event which is organised by the Unemployment Insurance Fund. Such an event provides all of the information on the redundancy process and job-seeking and answers all questions employees want to ask. Furthermore, employers can ask the officials about the regulation on and procedure for collective redundancies and other related questions.

Question

Under Section 26 of the 2000 Trade Unions Act, as amended in 2002, an employer who fails to comply with the information and consultation requirement is punishable by a fine of up to EEK 6,000 (EUR 386). The Committee thinks that this sum is derisory and obviously no deterrent to the employer. It is not clear, however, whether this provision applies to breaches of Section 89 of the Employment Contracts Act, which was amended after the Trade Unions Act came into force. Moreover, the report says that draft legislation on social dialogue proposes higher fines for infringements of the information and consultation requirement. The Committee therefore asks for full and up-to-date details in the next report of the penalties which apply.

With regard to the fine in the amount of EEK 6,000, we agree that it is a small amount for the purpose of affecting. Section 89 of the Republic of Estonia Employment Contracts Act has been repealed as from 1 January 2003.

We inform that unlike with the Social Dialogue Act as planned earlier, it was decided to divide the whole topic between the new Employees' Representative Act (which currently exists as draft legislation) and the Involvement of Employees in Activities of Community-scale Undertakings, Community-scale Groups of Undertakings and European Companies Act, adopted in January 2005 and already in force.

In both cases, the fines are significantly bigger. If the infringer is a natural person, the fine is up to EEK 12,000 (at the moment). In the Act, the base amount is determined by a penalty unit, i.e. up to 200 penalty units – currently one penalty unit is worth EEK 60. A legal person who has infringed will be punished with a fine of up to EEK 50,000. The draft legislation of the new Employees' Representative Act provides for the repeal of Section 26 of the Trade Unions Act.