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REVISED EUROPEAN SOCIAL CHARTER

6th National Report on the implementation of
the European Social Charter (revised)

submitted by

THE GOVERNMENT OF ESTONIA

(Articles 7, 16 and 19
for the period 01/01/2005 – 31/12/2009
Articles 8, 17 and 27
for the period 01/01/2003 – 31/12/2009)

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Report registered by the Secretariat on 10 March 2011

CYCLE 2011

EUROPEAN SOCIAL CHARTER

(REVISED)

Eighth Report of the Republic of Estonia

on the accepted provisions

For the reference period

2003 (2005)–2009

Articles 7, 8, 16, 17, 19, 27

For the period 2003 (2005)–2009 made by the Government of Estonia in accordance with Article C of the Revised 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 the Estonian Central Federation of Trade Unions (EAKL), the Estonian Employees Unions Confederation (TALO) and the Estonian Confederation of Employers (ETK).

All Estonian legal acts that have been translated to English are available on the Internet at http://www.legaltext.ee/indexen.htm.

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Article 7: The right of children and young persons to protection

Article 7 § 1: Minimum age of admission to work

General regulation

Admission to employment of minors and the respective working conditions are regulated by the Employment Contracts Act (hereinafter the *ECA*) and the Regulations issued on the basis thereof since 1 July 2009. Requirements arising from Council Directive 94/33/EC on the protection of young people at work and from the revised European Social Charter have been taken into account in the ECA for imposing restrictions on employment of minors.

Subsection 7 (1) of the ECA prohibits employers from entering into employment contracts with or permitting minors to work if they are below 15 years of age or minors who are obliged to attend school except in cases provided by legislation where minors are permitted to perform work to a limited extent and level of effort.

According to subsection 7 (2) of the ECA, employers may not enter into employment contracts with or permit minors to work if the work:

1) exceeds the physical or psychological capabilities of minors;
2) harms the morality of minors;
3) involves hazards that minors may not recognise timely or avoid, owing to their lack of experience or training;
4) hinders the social development or obtainment of education of minors; and
5) poses a hazard to the health of minors due to the nature of work or the hazards of the working environment.

According to subsection 7 (4) of the ECA, employers may enter into employment contracts with and permit for minors to work in case of minors of 13-14 years of age or minors of 15-16 years of age who are obliged to attend school if the work duties are simple and do not require any major physical or mental effort (light work). It is permitted for minors of 7-12 years of age to perform light work in the fields of culture, art, sports or advertising if the work consists of duties that do not require any major physical or mental effort.

Types of light work have been enacted by Regulation no 93 “Light Work Permitted for Minors” of the Government of the Republic. For example, it is permitted for minors to perform agricultural work (picking berries and fruit), support work performed in trading or service enterprises (unpacking or placing goods on shelves), support work performed in catering or accommodation establishments (laying tables), handicraft (manufacturing souvenirs), work in an office (working as an assistant), cleaning or tidying work and work related to activities of culture, sports or advertising.

Consent of the minor and his or her legal guardian is required in order to enter into an employment contract according to subsection 8 (1) of the ECA. It is forbidden for employers to permit for minors to work without the consent or approval of the legal guardian. Employers must apply to the labour inspector for consent in order to enter into an employment contract with minors of 7-14 years of age (subsection 8 (3) of the ECA).

The Committee concludes that the situation in Estonia is not in conformity with Article 7 § (1) of the revised Charter because the rules governing the minimum age for employment and the nature of the tasks permitted do not in practice apply to all children working in family enterprises, in domestic work or on family farms.

The new ECA does not provide for differences in entering into employment contracts with minors; therefore, the protection of minors working in family enterprises and domestic work is equally ensured compared to other minors.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. A compromise was achieved regarding the substantive issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and the private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the webpage of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html). Materials in Estonian, English and Russian handling the issues related to the

work of minors can also be accessed on the webpage of the Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

It is possible both for employees and employers to receive information from the Labour Inspectorate via telephone as well as book an appointment regarding all issues related to employment relationships. It is possible to receive information related to employment relationships on every working day from the information number of the Labour Inspectorate. The Labour Inspectorate has also organised different training events introducing the ECA. The Labour Inspectorate is obliged to exercise supervision over complying with the requirements of the legislation regulating occupational health and safety.

Statistics

According to the data of the Labour Force Survey of the Statistical Office, the number of salaried workers aged 15-19 during 2005-2009 was the following:

Table 1: Number of salaried workers aged 15-19, 2005-2009, in thousands.

Employment status of persons aged 15-19					
Men and women	**2005**	**2006**	**2007**	**2008**	**2009**
15-19	6.8	8.9	11.5	9.4	5.0

Source: Statistics Estonia

According to data of the Labour Inspectorate, the number of applications sent to the Labour Inspectorate for employment of minors during 2005-2009 was the following:

Table 2: Applications sent to the Labour Inspectorate for employment of minors, 2005-2009.

Application	§	2005	Consent given	2006	Consent given	2007	Consent given	2008	Consent given	2009	Consent given
Hiring of a person of 13-15 years of age	On the basis of subsection 30 (1) of the ECA	176	156	195	168	216	189	175	158	59	47
Entering into an employment contract with a minor of 7-14 years of age since July 2009	On the basis of subsection 8 (4) of the ECA	0	0	0	0	0	0	0	0	34	28

Source: Labour Inspectorate

The Labour Inspectorate has identified the following violations by employers against minors related to employment relationships in 2008-2009:

Table 3: Violations by employers against minors related to employment relationships, 2008-2009.

Violations related to employment relationships	2008	2009
No written employment contract		1
The employment contract does not conform to requirements	1	
Internal work procedure rules not established/not approved	4	
The standard for working time of minors does not conform to requirements	4	1
Other violations of the Working and Rest Time Act	2	
Other violations of the Holidays Act	2	
Compensation for work in special conditions		1
TOTAL	13	3

Source: Labour Inspectorate

Article 7 § 2: Minimum age of admission to work with respect to occupations regarded as dangerous

General regulation

According to subsection 8 (2) of the General Part of the Civil Code Act, persons who are under the age of 18 are considered to be minors.

The Government of the Republic has established Regulation no 94 “List of Working Environment Hazards and Work for Which Employment of Minors is Forbidden” of 11 June 2009 on the basis of subsection 7 (3) of the ECA. According to §§ 1-3 of the said Regulation, employers shall not enter into employment contracts and permit minors to work in conditions that endanger the health of minors due to physical, chemical and biological hazards active in the working environment. For example, it is not permitted for minors to work in demolition work that involves a danger of collapse; work is likewise not permitted with tractors and mechanical cutters. According to § 4 of the same Regulation, employers shall not enter into employment contracts and permit minors to work in case of work that endangers the health of minors due to certain production processes. A list of work in case of which it is not permitted for employers to enter into employment contracts and permit minors to work due to danger to health of minors is presented in § 5. Such work is, for example, work with radiation sources and in occupations that involve a high vibration, also in manufacturing enterprises with a high level of noise and working in an environment with a constant low or high air temperature.

If an employer has permitted minors to work by violating the aforesaid conditions, the Labour Inspectorate has the right to penalise the employer with a fine of up to 20,000 kroons (§ 118 of the ECA).

Recalling that the Appendix to Article 7 § 2 of the Revised Charter only allows derogations to the extent such work is absolutely necessary for the vocational training, the Committee therefore asks whether it must be verified independently that these tasks are strictly necessary for the vocational training of young people between the ages of 15 and 18.

According to § 6 of the Regulation of the Government of the Republic, exceptions to §§ 1-5 may be made when entering into employment contracts and permitting minors to work. Exceptions may be made when they cannot be avoided in course of practical training that is

being carried out based on a vocational training study programme and on the condition that work shall be performed under the supervision of an instructor of practical training or a working environment specialist and necessary measures have been implemented in order to ensure the health and safety of minors.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and the private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the webpage of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html). Materials in Estonian, English and Russian handling the issues related to the work of minors can also be accessed on the webpage of the Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

In addition to the aforementioned, a reference book for occupational safety for minors has been published in both Estonian and Russian.

It is possible both for employees and employers to receive information from the Labour Inspectorate via telephone as well as book an appointment regarding all issues related to employment relationships. It is possible to receive information related to employment relationships on every working day from the information number of the Labour Inspectorate. The Labour Inspectorate has also organised different training events introducing the ECA. The Labour Inspectorate is obliged to exercise supervision over complying with the requirements of the legislation regulating occupational health and safety.

Statistics

Based on data of the Labour Inspectorate, there have been a total of 46 violations in case of dangerous work or work that is hazardous to health related to minors in the years 2008-2009.

Table 4: Violations related to minors in case of dangerous work or work that is hazardous to health, 2008-2009.

Violations related to occupational health and safety	2008	2009
No risk analysis of the working environment has been performed		5
No working environment council has been formed in an enterprise with at least 50 employees		1
Other violation related to the Occupational Health and Safety Act		2
No list of employees targeted for a medical examination has been composed and the required documents have not been submitted to the performer of medical examinations	1	1
Employees to be targeted for a medical examination have not been determined		3
Medical examination of employees has not been duly carried out	17	13
Other procedure for medical examination	1	1
Sources of noise and measurement of noise levels have not been determined	1	
TOTAL	20	26

Source: Labour Inspectorate

Article 7 § 3: Working of minors who are studying

General regulation

According to clause 7 (2) 4) of the ECA, employers may not enter into employment contracts with or permit minors to work if the work is likely to harm the social development of the minor or jeopardise their education.

According to subsection 17 (1) of the Basic Schools and Upper Secondary Schools Act, children who attain 7 years of age by 1 October of the current year are subject to the obligation to attend school. Students are subject to the obligation to attend school until they acquire basic education or attain 17 years of age. For the purposes of the ECA, jeopardising the education is also considered to be when a minor is attending school but is not able to take part in lessons with sufficient activity due to fatigue.

According to subsection 8 (3) of the ECA, employers shall apply for the consent of a labour inspector to enter into employment contracts with a minor of 7-14 years of age. When granting consent, the labour inspector must *inter alia* ensure that the work does not hinder the performance of the obligation of the minor to attend school. It is forbidden for employers to permit minors to work without the consent of a legal representative or labour inspector. If the employer enters into an employment contract with a minor without the consent of the legal representative or the labour inspector, the labour inspector has the right to initiate misdemeanour proceedings against the employer and, in case of a violation, to penalise the employer with a fine of up to 20,000 kroons (§ 119 of the ECA).

The Committee asks whether they are allowed to work in the morning before school starts.

Minors are not allowed to work in the morning before school starts. According to subsection 49 (3) of the ECA, an agreement according to which an employee subject to the obligation to attend school is obliged to perform work immediately before the start of the school day is void.

The period of rest must at least cover half the holiday period for children still subject to compulsory education.

According to the ECA, it is forbidden for minors to work for more than half of each term of the school holiday; therefore, the legal guardian of a minor may not consent to employment

during the school holiday for more than half of each term of the school holiday (subsection 8 (2) of the ECA). For the purposes of each school holiday, the summer, autumn, winter and spring school holidays are considered separately.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

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Statistics

According to the data of the Labour Force Survey of Statistics Estonia of 2009, the number of employed persons aged 15-19 was 5,000, whereas 1,700 of them were studying.

Article 7 § 4: Rrestrictions on working time

General regulation

The upper limits of the working time of an employee have been provided for according to the age of the minor and the obligation to attend school according to subsection 43 (4) of the ECA. Unless the employer and the employee have not agreed on a shorter working time, the shortened full time work is:

1) in the case of employees who are 7-12 years of age, 3 hours per day and 15 hours per seven days;
2) in the case of employees who are 13-14 years of age or who are subject to the obligation to attend school, 4 hours per day and 20 hours per seven days;
3) in the case of employees who are 15 years of age and not subject to the obligation to attend school, 6 hours per day and 30 hours per seven days; and
4) in the case of employees who are 16 years of age and not subject to the obligation to attend school, and employees who are 17 years of age, 7 hours per day and 35 hours per seven days.

It is also possible to apply calculation of total working time for minors, but the limits prescribed in subsection 43 (4) of the ECA shall be taken into account when using this method (subsection 43 (5) of the ECA). It is forbidden for minors to perform overtime (subsection 44 (2)).

According to subsection 47 (3) of the ECA, an agreement according to which a break of no less than 30 minutes during the working day has been foreseen for minor employees per 4.5 hours of work is void.

The daily rest time for minors has been provided in subsection 51 (2) of the ECA, according to which the following agreements are void:

1) by which the consecutive rest period left for minor employees of 7-12 years of age over a period of 24 hours is less than 21 hours;
2) by which the consecutive rest period left for minor employees of 13-14 years of age or an employee subject to the obligation to attend school over a period of 24 hours is less than 20 hours;

3) by which the consecutive rest period left for minor employees of 15 years of age who are not subject to the obligation to attend school over a period of 24 hours is less than 18 hours; and
4) by which the consecutive rest period left for minor employees of 16 years of age who are not subject to the obligation to attend school or an employee of 17 years of age over a period of 24 hours is less than 17 hours.

The night work of minors is regulated by subsection 49 (1) of the ECA that provides that an agreement by which a minor employee undertakes to work between 8:00 p.m. and 6:00 a.m. is void. An exception to the aforementioned may be made if the minor employee is performing light work in the fields of culture, art, sports or advertising under the supervision of an adult between 8:00 p.m. and 12:00 p.m. (subsection 49 (2) of the ECA).

An agreement according to which an employee subject to the obligation to attend school is obliged to perform work immediately before the start of the school day is void (subsection 49 (3) of the ECA).

If an employer has violated the limits for total working time with regard to minors, the Labour Inspectorate has the right to penalise the employer with a fine of up to 20,000 kroons (§ 121 of the ECA).

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and the private sectors.

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Statistics

The violations by employers against minors related to employment relationships in 2008-2009 identified by the Labour Inspectorate are presented in Table 3 (Article 7 § 1).

Article 7 § 7: Holidays

General regulation

According to § 55 of the ECA, it is generally presumed that an employee's annual holidays are 28 calendar days whereas minors have the right to longer holidays. According to § 56 of the ECA, it is presumed that the annual holidays if a minor employee are 35 calendar days, unless the employer and the employee have agreed on a longer period of annual holidays or unless otherwise provided by law. The purpose of the longer period of annual holidays is to ensure the social development and obtainment of education of minors.

According to subsection 68 (2) of the ECA, time of temporary incapacity for work shall be considered as time serving as the basis for granting annual holidays.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and the private sectors.

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The Labour Inspectorate is obliged to exercise supervision over complying with the requirements of the legislation regulating occupational health and safety.

Statistics

The violations by employers against minors related to employment relationships in 2008-2009 identified by the Labour Inspectorate are presented in Table 3 (Article 7 § 1).

Article 7 § 8: Ban on working at night

General regulation

The night work of minors is regulated in § 49 of the ECA. According to subsection 1 of the said section, an agreement by which a minor employee undertakes to work between 8:00 p.m. and 6:00 a.m. is void. An exception to the aforementioned may be made if the minor employee is performing light work in the fields of culture, art, sports or advertising under the supervision of an adult between 8:00 p.m. and 12:00 p.m. (subsection 49 (2) of the ECA). The Labour Inspectorate has the right to penalise the employer who fails to comply with the restrictions on the night work of minors with a fine of up to 20,000 kroons (§ 124 of the ECA).

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and the private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the webpage of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html). Materials in Estonian, English and Russian handling the issues related to the work of minors can also be accessed on the webpage of the Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

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Statistics

No complaints or violations related to night work of minors were registered in the Labour Inspectorate from 2005 to 2009. The following applications have been submitted to the Labour Inspectorate for the work of minors from 8:00 p.m. to 12:00 a.m. during 2005-2009:

Table 5: Applications for the work of minors from 8:00 p.m. to 12:00 a.m. during 2005-2009.

Application	**§**	**2005**	Consent given	**2006**	Consent given	**2007**	Consent given	**2008**	Consent given	**2009**	Consent given
Consent for work of persons aged 13-17 in the evening and at night	Subsections 11 (6) and (7) of the Working and Rest Time Act	0	0	1	1	1	1	1	1	0	0

Source: Labour Inspectorate

Article 7 § 9: Medical examinations

General regulation

Regulation no 74 “Procedure for Medical Examinations of Employees” of 24 April 2003 of the Minister of Social Affairs established on the basis of the Occupational Health and Safety Act prescribes the procedure for medical examinations for employees whose health may be affected by the hazards of the working environment or the type of work during the work process that may cause diseases related to the work of employees. The Regulation applies to all categories of employees, including minor employees.

When targeting an employee for a medical examination, the employer consults a working environment specialist who is familiar with the working conditions of the employee and with the working environment representative. Medical examinations are carried out in two phases: primary medical examinations and routine medical examinations, whereas the medical examinations begin with a primary medical examination within the first month of commencing work at a certain job and continue as routine medical examinations periodically as appointed by the occupational health doctor. The primary examination must not be confused for the prior medical examination where the suitability of the person applying for the job is determined. The goal of the primary medical examination is to determine the state of health of the employee and then periodically examine the state of health during work to ascertain all signs of disease.

The occupational health doctor will issue the decision of the medical examination of the employee to the employer after the employee has passed the medical examination. It consists of suggestions for changes that the employer has to carry out in the working environment or organisation of work of the employer.

According to the Occupational Health and Safety Act, the medical examinations of employees are carried out during working time by an occupational health doctor at the expense of the employer. The information concerning the state of health of employees is confidential and must be stored in protected databases.

The Committee points out that a period of three years between medical check-ups for persons under 18 years of age was excessive (Conclusions II, p. 37).

Legal situation has been changed. The frequency of medical examinations for minors is 2 (two) years and may be shortened based on the decision of the doctor.

Measures for implementation of legal regulation

The Labour Inspectorate exercises supervision over the conformity to requirements of medical examinations based on the Occupational Health and Safety Act. The rules of procedure are prescribed in the Administrative Procedure Act (2001) and in the Substitutive Enforcement and Penalty Payment Act, according to which an employer who violates the Occupational Health and Safety Act may be punished with a fine of up to 40,000 kroons (2,666 euros).

Statistics

Please see Table 4 regarding violations related to minors (Article 7 § 2).

Article 7 § 10: Special protection of minors

Special protection of minors when working

General regulation

According to subsection 7 (2) of the ECA that entered into force on 1 July 2009, employers may not enter into employment contracts with or permit minors to work if the work:

1) is beyond the physical or psychological capability of the minor;
2) is likely to harm the moral development of the minor;
3) involves risks that the minor cannot recognise or avoid owing to their lack of experience or training;
4) is likely to harm the social development or jeopardise the education of the minor; and
5) involves health hazards to the minor arising from the nature of the work or from the hazards of the working environment.

The Government of the Republic has established Regulation no 94 “List of Working Environment Hazards and Work for Which Employment of Minors is Forbidden” of 11 June 2009 on the basis of subsection 7 (3) of the ECA. According to §§ 1-3 of the Regulation, employers shall not enter into employment contracts and permit minors to work in conditions that endanger the health of minors due to physical, chemical and biological hazards active in the working environment. According to § 4 of the Regulation, it is also forbidden for employers to enter into employment contracts and permit minors to work in conditions that endanger the health of minors due to certain production processes. The list is not closed, which means that if there is any factor active in the working environment that is not included in the Regulation, the danger thereof to minors must be assessed separately in every certain case based on the limits provided in subsection 7 (2) of the ECA. § 5 of the Regulation prescribes a separate list of certain work in case of which it is not permitted for employers to enter into employment contracts and permit minors to work in conditions that endanger the health of minors. These conditions include, *inter alia,* forbidden harmful radiation and vibration, a high level of noise and work in an environment with constant low or high air temperature. Work related to a danger of falling from height, with high-voltage electric equipment or a mechanical cutter as well as with a tractor or work related to a danger of collapse is also forbidden.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and the private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the webpage of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html). Materials in Estonian, English and Russian handling the issues related to the work of minors can also be accessed on the webpage of the Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

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Statistics

Please see Article 7 §§ 1-4 and 7-9.

Other special protection

General regulation

Representation of children

The legal representative of a victim who is a minor in criminal proceedings is the parent or the guardian of the minor who is obliged to protect the rights and interests of the minor (§ 41 of the Code of Criminal Procedure). If damage has been caused to the parent or the guardian with the same criminal offence (including moral damage, which can most of all be presumed in case of offences against the person committed against minors), they will be involved in the proceedings as victims (subsection 37 (1) of the Code of Criminal Procedure). If the legal representative or another person close to the minor is the suspect or the accused and there is a case of conflict of interests, another representative of the victim will be involved for representing the minor.

Requirements for questioning and hearing of children

Witnesses and victims who are minors are generally questioned in a questioning room meant for minors that has furnishing that takes into account the age of the minor and has adequate recording equipment to avoid repeated questioning, above all in case of offences against the person and sexual offences. The specialist taking part in the questioning is chosen by the body conducting the proceedings, taking into account the ability of the person to work with children, his or her education, professional experience and training (§ 70 of the Code of Criminal Procedure). Regional child welfare officials who have had previous contacts with the victim are preferred. A victim support specialist who has previously counselled the victim may also be involved in the questioning. A specialist who has already established contact with the minor has to be involved in repeated questionings if possible. The right to refuse to give testimony (§ 71 of the Code of Criminal Procedure) must be thoroughly explained to the minor in a manner that the minor can understand in order to help the minor decide whether to give testimony and to avoid later refusal of giving testimony. It is advised to use the help of a specialist to help the minor understand his or her rights. The body conducting the proceedings has to consider that the procedural acts involving the minor have to be carried out in a manner that takes into account the age of the minor and focuses of the interests of the minor.

In the hearing of a witness under 14 years of age, he or she will not be cross-examined (subsection 290 (1) of the Code of Criminal Procedure) and a child welfare official, social worker or psychologist may question the witness with the permission of the court (subsection 290 (2) of the Code of Criminal Procedure). As minors generally lack the experience of judicial proceedings, the public prosecutor will cooperate with the child protection official, social worker or psychologist to prepare a minor under 14 years of age (or older if necessary) for judicial proceedings. A specialist who will take part in the judicial proceedings will be preferably involved in the preparatory process. A witness under 10 years of age will not be heard in court if possible. According to the judgment of 16 June 2005 of the European Court of Justice regarding the case of Maria Pupino, the court of a Member State must have the possibility to allow small children who are victims of abuse in cases similar to the said case to give testimony outside and before court sessions in a procedure that enables the protection of these children to be ensured at the required level. It is possible to apply long-distance hearing of small children or in certain cases publish the testimony given in pre-trial procedure in order to avoid harmful consequences that, as assessed by professional specialists, may arise as a result of hearing of the minor in court.

Assurance of privacy

When disclosing information concerning pre-trial proceedings (§ 214 of the Code of Criminal Procedure), the body conducting proceedings has to, above all, take into account the interests of the minor and, if possible, ensure the anonymity of him or her. If necessary, journalists will be told to take notice of the Code of Ethics of the Estonian Press according to which minors will be generally interviewed in the presence or with the consent of the parent or the guardian responsible for the minor. It is also notable that journalists have to consider whether the identification of the parties involved is necessary and what suffering it may cause to them when publishing materials of offences, court cases and accidents. Victims and juvenile offenders are not generally identified.

The purpose of restrictions on public assess to court sessions (clauses 12 (1) 2) and 3) of the Code of Criminal Procedure) is to avoid access of information about the juvenile suspect, accused or victim to persons who may abuse it with regard to the minor and to avoid excessive negative effect by the public interest to the further well-being of the minor. Declaring a session to be held *in camera* is generally necessary if the minor has been a victim in offences against sexual self-determination and offences against family and minors.

In other criminal matters, the necessity of declaring the session to be held *in camera* has to be determined by taking into account the interests of the minor.

Victim support

The victim support service is implemented for assisting victims who are minors in addition to the assistance and services offered in the framework of the Social Welfare Act. The victim support service is a public service which serves to maintain or improve the capability of coping of the victim. Victim support involves counselling the victim and assisting him or her in communicating with various institutions. All persons who have been a victim of negligence, mistreatment or physical, mental or sexual violence have the right to victim support; i.e. all persons who have suffered distress or damage have the right to victim support regardless of whether the person who caused damage has been revealed and whether a criminal matter has been initiated against him or her.

Over 35 victim support workers are active in Estonia. A victim support worker is an official who is organising assistance for the victims in his or her region. After the first interview with the victim, he or she will contact regional family centres, psychologists, support groups, self help groups and other such organisations that are competent to provide qualified support for the victim and send the victim to the aforementioned organisations who provide support. The victim support workers are in acting in subordination to the Ministry of Social Affairs and Social Insurance Board. The victim support workers are financed from the state budget.

Amendments to the Victim Support Act entered into force on 1 January 2007. According to the amendments, in addition to the help received from the victim support service, the compensation is paid to the victims for professional psychological aid. The compensation is financed by the state for the purposes of restoring the coping skills of the victim or a member of his or her family.

Sexual abuse

Estonia signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse in 2008. The changes to legislation necessary to ratify the convention were reviewed in 2009, above all the active regulation concerning so-called “grooming” and a draft for amending the Penal Code was composed by the Ministry of Justice by the end of 2009. The said amendments to the Penal Code have entered into force

on 15th of March 2010. Grooming (§ 178[1] of the Penal Code) – an agreement to meet a child for sexual purposes – was made a criminal offence.

The purpose of the said amendment is to avoid development of communication between an adult and a child to a physical sexual relationship and thereby prevent the sexual abuse of children. It is noteworthy that the necessary elements of a criminal offence are filled even without the actual meeting between the harassing person and the child; it is sufficient if a proposal and a few preparatory actions for the meeting are made. Taking into account the manipulation skills of paedophiles, it does not matter in terms of punishability if the child makes the proposal to meet himself or herself. This makes penalising sexual offenders more efficient. However, the amendment does not mean that normal daily communication between children and adults would be a criminal offence; the presumption is the fact that the purpose of the adult for the meeting is to commit an offence of a sexual nature against the child and it has to be proved in the course of proceedings.

According to the Laulasmaa declaration, combating against sexual offences involving child victims is one of the priorities of the criminal policy and several measures related to this topic have been taken over the last years in Estonia. Sentences for sexual offences committed against children have been made more severe and limits for work with children have been imposed to prevent sexual offences, for example use of a restraining order related to criminal procedure as well as the possibility of security imprisonment. In addition, different possibilities for improved protection for children against sexual abuse have been discussed. For example, the Riigikogu discussed the age limit of sexual self-determination in 2009. The Ministry of Justice also analysed the treatment of sexual offenders in the legal system in 2009 and concluded that a treatment system of sexual offenders should be elaborated to reduce the recidivism of sexual offenders.

The limits on work entered into force in 2007 with Children Act. The Act provides that persons who have been convicted of a criminal offence of a sexual nature against children, underage prostitution or child pornography would not be able to work on positions where they would directly come into contact with children: as teachers in schools and nursery schools, counsellors in youth camps, hobby group leaders, child-minders, etc.

In its previous conclusion, the Committee noted from another source[1] that the Criminal Code had been amended to criminalise trafficking in persons and enslavement, with maximum penalties of 15 years of imprisonment. The Committee asked for confirmation that the existing legislation covered trafficking of children specifically for sexual purposes and how it functioned in practice. The report states that no such explicit legislation exists and the Committee asks whether the Government intends to adopt legislation covering the trafficking of children specifically for sexual purposes.

The Committee repeats its request for information as to whether the legislation on trafficking covers trafficking for purposes other than sexual exploitation.

Trafficking in human beings has not been stated as a separate type of criminal offence in the Republic of Estonia. Trafficking in human beings has been determined in Estonian penal power through other sections, as trafficking in human beings is handled more widely than just sexual exploitation. The sections considered as sections of trafficking in human beings are known and there are no amendments in respect of these.

- § 133 of the Penal Code – Enslaving – placing a human being in a situation where he or she is forced to work or perform other duties against his or her will for the benefit of another person, or keeping a person in such a situation, if such an act is performed through violence or deceit or by taking advantage of the helpless situation of the person. There is no difference whether the person was placed in this situation to perform sexual services or another service or work.
- § 134 of the Penal Code – Abduction – taking or leaving a person, through violence or deceit, in a state where it is possible to persecute or humiliate him or her on grounds of race or gender or for other reasons, and where he or she lacks legal protection against such treatment and does not have the possibility to leave the state.
- § 135 of the Penal Code – Hostage taking – imprisonment of a person in order to compel, under the threat to kill, detain or cause health damage to the person, a third person to commit or consent to an act.
- § 136 of the Penal Code – Unlawful deprivation of liberty – unlawful deprivation of the liberty of another person, even if committed outside of Estonia.
- § 139 of the Penal Code – Illegal removal of organs or tissue – and § 140 of the Penal Code – Inducing person to donate organs or tissue – are related to organ donation and trafficking related to it.

[1] US Dept. of State, Trafficking in persons report, June 2003, Estonia, www.state.gov.

§§ 133-139 are related to acts committed against both minors and adults.

- § 143, etc., of the Penal Code – cases of sexual exploitation – separate subsections for acts committed against minors are provided.
- § 172 of the Penal Code – Child stealing – concealed or unconcealed kidnapping of another person's child of less than 14 years of age from a person under whose care the child legally is.
- § 173 of the Penal Code – Sale or purchase of children.
- § 259 of the Penal Code – Illegal transportation of foreignes across state border or temporary border line of Republic of Estonia.

Please see Table 6 henceforth.

Obligation to Leave and Prohibition of Entry Act applies the European Directive 2003/110/EC on assistance in cases of transit for the purposes of removal by air (OJ L 321, 6.12.2003, p. 26-31) and Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (OJ L 261, 8.6.2004, p. 19-23).

An international contact point has been established in Estonia for matters related to unaccompanied children and trafficked children. The contact point has been the Ministry of Social Affairs since 2004. The contact point must be notified of an unattended child or a trafficked child and the necessary activities with regard to the child in need will then be coordinated. If necessary, the Ministry of Social Affairs will coordinate communication between the contact points for unaccompanied and trafficked children (found at www.childcentre.info).

Guidelines for identifying and assisting victims of trafficking in human beings that also handles assisting of a victim who is a child was also finished in January 2009. The Guidelines has been forwarded to partners of cooperation.

As regards the functioning of the law in practice, the Committee notes that there are problems encountered in detecting offences related to child pornography since these are offences that can be discovered with surveillance work. Surveillance proceedings are possible in Estonia only in the case of offences punishable by at least three years' imprisonment. Legislation has been prepared to make the respective changes in the Penal Code. The Committee asks that the next report provide information on these legislative changes and the practice.

An amendment to legislation was made, improving the efficiency of protection of minors against being used in pornographic works. Knowingly displaying pornographic works or otherwise knowingly making available thereof to minors if the minor was induced to do it by enticement, threatening or any other act was penalised (§ 179 of the Penal Code). The upper limit of the term of penalty for sexual enticement has been increased from the former 1 year to 3 years with the same amendment to legislation. The said amendments to the term of penalty of § 179 of the Penal Code enable more efficient surveillance as the term is now higher than before.

The following number of cases of offences related to pornography involving minors, §§ 177-178 (§177 of the Penal Code – Use of minors in manufacture of pornographic works; § 178 of the Penal Code – Manufacture of works involving child pornography) have taken place in the previous years:

- 2006 – 39;
- 2007 – 26;
- 2008 – 56;
- 2009 – 28.

Measures for implementation of legal regulation

In the previous conclusion, the Committee noted that a National Strategy against Child Commercial Sexual Exploitation and Protection had been prepared. The Committee also noted that, according to the Tartu Child Support Centre, the effective protection of children from sexual exploitation appeared in practice to be weak. Therefore, it requested information on this situation and on the content of this national action plan and the results achieved.

The Government furthermore envisages the improvement of the response mechanism in detecting sexual offences committed via the Internet. The preparation of an action plan should also reveal any need to amend or improve the legal acts regulating this field. The Committee asks that the next report indicate any results achieved in this area.

The Committee notes various activities, such as the awareness-raising of teachers in the area of sexual education and drug prevention, setting up a task force for fighting abuse of minors with the criminal police of the Northern Prefecture (including Tallinn and Harju County) in April 2004, the organisation of a project in the Eastern Prefecture on prostitution prevention aimed at prevention of girls falling victim to prostitution or trafficking and a state-wide survey titled "Experiences of Sexual Abuse and Attitudes among Estonian Youth" was carried out. The Committee considers these plans as being positive and asks to be informed of the results of these plans in the next report.

National Strategy for Ensuring the Rights of Children 2006-2009

The Government of the Republic approved the National Strategy for Ensuring the Rights of Children on 16 October 2003, which was in effect in the years 2004-2008. The Strategy was composed with the aim of more efficient and more consistent execution of the UN Convention on the Rights of the Child between different fields of activity in Estonia. The purpose of the National Strategy for Ensuring the Rights of Children was the implementation of the principles of the UN Convention on the Rights of the Child and the Optional Protocols to it in a manner to ensure all the basic and special necessities of children living in Estonia with the help of the family, community and society.

Part I of the Strategy focused on goals related to satisfaction of the basic necessities of children.

Part II focused on goals related to satisfaction of special necessities of children, whereas Article 2.6 provided measures for prevention of abuse of children and supporting abused children in every possible way.

On the basis of Article 2.6:

1) activities were carried out to prevent children from being abused;
2) awareness of the community was increased to better recognise abused children and to inform the institutions that provide help; and
3) the system for supporting abused children was enhanced.

The purposes of Part III of the Strategy focused on developing efficient systems for ensuring the well-being of children.

A national activity plan that reflected the activities being carried out to fulfil the goals provided in the Strategy was composed each year in order to implement the Strategy. A working group involving several Ministries was formed to compose the activity plans and annual reports.

In 2009, the Ministry of Social Affairs composed the report on executing the National Strategy for Ensuring the Rights of Children 2004-2008. In 2010, elaboration of the development plan for 2011-2020 for children and families started as suggested in the report.

Child helpline

- The national child helpline 161 111 was launched on 1 January 2009, enabling all persons to report about children in need and offer information and counselling and, if necessary, crisis counselling to children and persons related to children.
- The helpline is working round the clock and the service is free of charge to callers from both fixed-line and mobile networks. Calls will be answered in Estonian, Russian and English.
- In addition to information and counselling via phone, the child helpline also offers the possibility to receive information and support via the internet (www.lasteabi.ee).
- If a person reports of a child in need (a child suffering from violence, a child without parental care, etc.), the consultant will forward the call to a specialist or forward the information to the police or the regional local government of the child.
- It is also inspected whether the child in need has received help after the information has been forwarded.

- The service also enables to report about children in need for persons who wish to remain anonymous.

National Development Plan for Combating Trafficking in Human Beings

The Development Plan for Combating Trafficking in Human Beings was approved by the Government of the Republic on 26 January 2006. The plan brings out the strategic purposes in combating against trafficking in human beings and the main measures and activities in the years 2006-2009 for achieving these purposes were defined. The general purpose of the development plan was to improve combating against trafficking in human beings. The development plan had 6 sub-goals to reach this purpose, one of which was the assistance and rehabilitation of victims of trafficking in human beings. The part preventing and restraining sale and prostitution of children and child pornography was added to the development plan in 2007. The plan handled all kinds of trafficking in human beings, i.e. human trafficking for other purposes than sexual abuse as well. There were three measures directly meant for children:

1) Constant improvement of professionalism of the specialists working with children;
2) Organisation of in-service training for the staff of social welfare institutions for children and organisation of training events for child protection officials;
3) Participation in the working group for children at risk at the Council of the Baltic Sea States;
4) Noticing and intervening in the need for assistance of children: keeping child help lines and hotlines active and improving them.

In addition to that, there are measures that focus on both adults and children as target groups (training events, lectures, surveys, helpline for prevention of trafficking in human beings and assisting victims, developing cooperation in Estonia and with foreign states, exchange of surveillance information, more efficient proceedings of offences, etc.). In order to avoid trafficking in human beings, attention has also been paid to matters related to crossing of borders by minors.

The reports on the National Development Plan for Combating Trafficking in Human Beings 2006-2009 are available in English for years 2007 and 2008 at http://www.just.ee/18886; the final report is available in Estonia.

Indicators of the increase in awareness and results of the Development Plan for Combating Trafficking in Human Beings:

- carried out planned surveys (2 in total, one regarding the awareness of upper secondary school students about trafficking in human beings);
- carried out more training events and lectures than planned (100 lectures and 12 training events instead of 40 and 8, respectively), *inter alia* for specialists working with children. For example, the report "The Frail Chain" about trafficking in children in the Baltic Sea region (an overview of the situation of child victims who have suffered from trafficking in the Baltic Sea countries and an overview of the cooperation work) was composed as a result of the mapping plan of the working group of children at risk of the Council of the Baltic Sea States. Training events were also organised in the course of the said project for specialists working with children: in 2006 and 2007, five training courses were held for specialists working with the children of the Baltic Sea countries, with 50 persons from 10 countries participating. The purpose of the training was to assist children who have fallen victim to trafficking in human beings. A network was formed in the Baltic Sea region for solving cases related to trafficking in children as an additional result;
- NGO Living for Tomorrow independently carried out a series of lectures for school students (54 lectures in the years 2007-2009);
- the hotline for prevention of trafficking in human beings is continuously active with NGO Living for Tomorrow being the promoter; 2,200 persons (including victims of trafficking in human beings) had received support by the end of 2009. The hotline offers support to victims of trafficking in human beings as well as advice to persons who wish to safely study, work or marry abroad. In 2007, 371 persons received help; in 2008, 416 calls were answered and in 2009, the number of calls was already 639. Roughly half of the persons who use the hotline are men while half are women; over half of the persons have vocational education and a third have upper secondary education; 60% of callers are from Tallinn and over a quarter from the Ida-Viru County. The main countries about which information was needed and where persons wanted to head were the United Kingdom (106), Finland (59), Germany (49) and other EU Member States (79) as well as Norway (43) in 2009. For example, in 2009, 64% of the callers were Estonian citizens, 21% were foreignes, 15% were foreignes with a residence permit, but 85% of the callers were Russian by nationality. Unskilled work is mainly sought for (35), but there are also many persons for whom the type of work is not important;

- various informative materials were issued in the years 2006-2008 to introduce issues related to trafficking of human beings for sexual exploitation and prostitution: for example the publications "Sex Slavery in our Time. About an Industry", "Effects and Consequences of Legalisation of Prostitution", "Ten Myths About Prostitution", "Who's Buying? The Clients of Prostitution", for example http://213.184.49.171/www/gpweb_est_gr.nsf/HtmlPages/seksiorjus/$file/seksiorjus.pdf, http://213.184.49.171/www/gpweb_est_gr.nsf/HtmlPages/5_2007Seksiostjad/$file/5_2007%20Seksiostjad.pdf, http://213.184.49.171/www/gpweb_est_gr.nsf/HtmlPages/seksiostjad_raamat/$file/seksiostjad_raamat.pdf;
- an overview of the nature of trafficking in human beings and useful links has been actively updated on the Crime Prevention Webpage (www.kuriteoennetus.ee). The webpage of the Ministry of Social Affairs also has a separate section for materials related to trafficking in human beings and prostitution – http://www.sm.ee/tegevus/sooline-vordoiguslikkus/inimkaubandus-ja-prostitutsioon.html); and
- the information and the report of the Nordic-Baltic Campaign against Trafficking in Women are available both in Estonian and in English at http://www.nordicbalticcampaign.org/estonian/index.html.

The Government of the Republic approved a new National Development Plan for Combating Violence 2010-2014 in 2010 (accessible at http://www.just.ee/49973). The development plan inter alia includes a separate chapter about restraining and preventing trafficking in human beings and chapters about prevention and reduction of acts of violence committed against children, about prevention and reduction of violence and offences committed by minors and prevention and reduction of family violence.

Projects carried out

STOP 1 and 2 (1998-2000)

Initiator/coordinator: Ministry of Internal Affairs of the Republic of Finland and the National Institute for Health and Welfare STAKES of the Ministry of Social Affairs and Health of Finland.

Partners: Estonia, Sweden, Germany, Finland, Russia + Denmark (the latter joined in 1999).

Carried out in Estonia by: AIDS Prevention Centre of the Health Protection Inspectorate

- STOP 1 (1998-1999): Building up a Network for Monitoring, Analysing Combating Trafficking in Women and Children between the specialists of Russia, Estonia, Sweden, Germany and Finland. Results/conclusions: A report of the research was composed with appendices including the contact data of persons active in certain fields as well as list of literature.
- STOP 2 (1999-2000): Minors in the Sex Trade. Results/conclusions: A research was carried out and a report was composed based on that.

The reports can be accessed on paper and in Estonian. There is no report that can be accessed electronically.

Research

Research posted on the webpage of the Ministry of Social Affairs, some of them in English: http://www.sm.ee/tegevus/sooline-vordoiguslikkus/inimkaubandus-ja-prostitutsioon/uuringud.html.

Reports

The report of Estonia on the sale of children, child prostitution and child pornography regarding the Optional Protocol to the Convention of The Rights of the Child of the UN can be accessed at: http://web-static.vm.ee/static/failid/414/Report_Rights_of_the_Child.pdf.

Report of Mrs. Maalla, Special Rapporteur of the UN Committee of the Rights of the Child on the sale of children, trafficking in children, child prostitution and child pornography in Estonia: http://www.unhcr.org/refworld/docid/4a9d1be8a.html.

Information received from the police and from the Prosecutor's Office

All minors who have become victims of trafficking in human beings are being guided for further aid to victim support, the staff of which will handle them, contacting also third sector organisations, if necessary, and assisting the victims in every possible way. Routinely the police cooperate with other domestic institutions – state as well as local municipality authorities and with non-profit associations.

In the Northern Police Prefecture, i.e. the area in which most cases of trafficking in human beings are being committed, the police has established a separate group whose daily duty is to combat against prostitution. In addition, since 1st January 2010 child protection services have been established in each prefecture, the daily duty of such services is the pre-trial proceeding of criminal offences against minors. In addition, there is a special unit in every Prefecture that deals with IT crimes in cooperation with the child protection services. All Prosecutor's Offices has public prosecutors who deal with cases that involve children. Training events for raising the qualification of the persons who are proceeding the corresponding criminal offences are being constantly carried out according to possibilities. The training events are domestic, but the staff also participates in training events provided outside the Republic of Estonia.

Proceedings related to offences committed by and against minors are generally conducted by preliminary investigators and public prosecutors who are specialists of the respective field and received the necessary preparation and have the necessary knowledge and skills to deal with minors. A child protection official, social worker or psychologist is involved in the proceedings to establish a better contact with the minor and make him or her feel safe. Social workers, child welfare officials and psychologists are also involved in training events for police officers who deal with children with the aim of sharing knowledge about special conditions for dealing with abused children. Questioning rooms with a special furnish for questioning abused children have been created in some police authorities in order to avoid additional trauma to children during the preliminary investigation and to ensure that the interests of the child are taken into account in the criminal proceedings. Preliminary investigative activities in criminal matters where a child has been a victim of sexual violence are carried out by police officers who have received the respective special training. Child psychologists, child psychiatrists, paediatricians and social workers are involved to help the children and his or her family. Information about the child and/or his or her family who were victims is not published.

A lot of attention in the framework of the crime prevention work of the police is paid to the prevention of child abuse and giving efficient aid to victims and the support network. Respective projects and programmes have been provided in the annual activity plans along with the budgets necessary. The Social Insurance Board and the Police Board entered into a cooperation agreement on 26 October 2004 that regulates the cooperation between the police and the Victim Support and prescribes the exchange of operational information between the partners related to victim support in order to provide a high-quality victim support service to victims of mistreatment and victims of physical, mental or sexual violence.

The police issued a manual “Police Instructions About Solving Cases of Intimate Partner Violence” in 2006, which covers the nature of intimate partner violence, the types of violent behaviour (mental, physical and sexual), communication with the parties to intimate partner violence and the activities of the police when solving and preventing cases of intimate partner violence. Advice about identifying a mistreated child, advice for parents as well as a help-link for children that allows mistreated children and their family members to explain their concerns can be accessed at the public web site of the police.

Serious attention has been paid to training of police officers, public prosecutors and judges in order to develop the qualification of the specialists working with children. Training events are carried out using as broad a spectrum of different offences related to minors as possible (prevention of offences, handling of acts of violence, victim support, trafficking in human beings and prostitution, performance of procedural acts, including usage of video recordings, etc.).

Examples of different training events:

- During the course of the PHARE project “Improving Investigation Involving Digital Evidence” that was initiated in 2004, police officers were trained, technical equipment was improved and devices that enable digital evidence to be analysed were acquired for police prefectures. The police were *inter alia* trained to discover child pornography on the internet. In 2004, a training event was organised in cooperation with the Tallinn Social Welfare and Health Care Board regarding organisation of cases in cooperation work in order to ensure the improvement of well-being of children by promoting joint activities of officials working in different sectors;
- In 2005: a training event regarding cooperation work with minors to ensure that specialists (child protection officials, public prosecutors, probation supervisors, judges etc.) who deal with minors have a unified understand of the principles of cooperation work and the need for cooperation work; a training event regarding family violence

and implementation of the Penal Code; Swedish-Estonian seminar about child pornography on the internet; a training event organised by the Estonian-Swedish Mental Health and Suiciodology Institute regarding suicidality and depression of children and young persons;

- In 2006: an international seminar regarding to sexual offences and the proceedings thereof related to children as well as a training event handling victim support. Police officers were introduced to the Danish crime prevention system for the youth. Police officers who come into contact with children in their work were taught about communication with an abused child and his or her family members;
- In 2007: an in-service training regarding intimate partner violence, where *inter alia* the solving of cases of intimate partner violence involving the participation of a child was handled in addition to solving cases and exchanging best practices; a training event funded by the European Union about trafficking in and sexual exploitation of children and young persons, the purpose of which was to discuss issues related to prevention of child prostitution, conducting criminal proceedings, distribution of pornographic works and international cooperation. In addition to the aforementioned, police officers were trained about trafficking in human beings: in 2007, training events called "Integration of Women Involved in Prostitution Including Victims of Trafficking in Human Beings to the Legal Labour Market" took place in the framework of the EQUAL Initiative of the European Commission in cooperation with NGO Estonian Women's Studies and Resource Centre and a training event was held in cooperation with NGO Tartu Child Support Centre about trafficking in and sexual exploitation of children and young persons;
- In 2008: training events for police officers dealing with conducting criminal proceedings involving minors about using video devices for questioning minors and using the recordings as evidence in order to raise their professionalism; police officers dealing with minors also participated in the international conference "Violence Against Children" organised by the Estonian Forensic Science Institute where the main issues were physical abuse of minors, the proving and identifying thereof, procedural acts, cooperation, research and practice;
- Joint training events of the police and the Victim Support are held regularly in order to handle the identification of victims, the assistance given to them, the prevention and solving of acts of violence as well as cooperation with different partners of the network. Separate training events are held for police officers about intimate partner violence and sexual violence where the clinical symptomatology of child abuse is also handled in order for police officers to pay attention to signs of danger pointing to child abuse during the course of resolving a family fight. The preventive activities related to

sexual abuse of children have been significantly improved. A respective subject has been introduced to the basic training of police officers and several in-service training events as well as seminars for improving the cooperation of different specialists have been held – a good example is the so-called multidisciplinary cooperation that has been working out well in Tartu for years between the police, the Prosecutor's Office and the specialists of the Tartu Child Support Centre; and

- When it comes to the activities of non-profit associations, a good example is the series of seminars called “The Nature of Paedophilia and its Effect on Children” organised in 2008 by the Estonian Union for Child Welfare for teachers, social workers and police officers. A collection of presentations on that topic was also published.

The Committee notes various activities and a state-wide survey titled “Experiences of Sexual Abuse and Attitudes among Estonian Youth” was carried out. The Committee considers these plans as being positive and asks to be informed on the results in the next report.

Information about the said research can be accessed at: http://www.reassess.no/asset/2812/1/2812_1.pdf.

Statistics and judicial practice

A table about registered offences that are related to sections that may (but might not be) connected to offences of trafficking in human beings has been added. The most important sections are §§ 172 and 173 as well as § 133. There is no case about usage of child labour.

Table 6: Registered offences that are related to sections that may (but might not be) connected to offences of trafficking in human beings.

Type of offence (§)		2003	2004	2005	2006	2007	2008	2009
§ 133	Enslaving	4	2	1	1	2	2	2
§ 136	Unlawful deprivation of liberty	36	41	55	44	55	58	43
§ 143	Compelling a person to engage in sexual intercourse	6	172	5	7	5	4	3
§ 143	Compelling person to satisfy sexual desire					5	13	6
§ 172	Child stealing	3	5	6		6	3	1
§ 173	Sale or purchase of children			1				
§ 175	Disposing minors to engage in prostitution		2			1	9	5
§ 176	Aiding prostitution involving minors	2	3	3	2	4	6	2
§ 177	Use of minors in manufacture of pornographic works	2	20	26	10	4	4	1
§ 178	Manufacture of works involving child pornography or making child pornography available	3	7	3	29	22	52	27
§ 259	Illegal transportation of foreignes across state border or temporary border line of Republic of Estonia	1	3	2	5	7	1	10
§ 268	Provision of opportunity to engage in unlawful activities or pimping	33	49	59	38	5	6	1
§ 268	Aiding prostitution					24	37	15
	TOTAL	90	304	161	136	140	195	117

Source: Police Board

The Border Guard has created a tight connection with the national contact centre of unaccompanied children of the Ministry of Social Affairs and no cases of trafficking in human beings related to children have taken place in the last years.

Table 7: The review of criminal offences directed towards minors, by the sections listed below, in the year 2009.

Penal Code section 133 –	Enslaving – subsection 2 clause 2 – the act has been committed against a person of less than 18 years of age – 0 cases;
Penal Code section 134 –	Abduction – subsection 2 clause 2 – the act has been committed against a person of less than 18 years of age – 0 cases;
Penal Code section 136 –	Unlawful deprivation of liberty – in Estonia in total 26 cases, incl. according to subsection 2, i.e. the act has been committed against a person of less than 18 years of age – 3 cases;
Penal Code section 172 –	Child stealing – 1 case;
Penal Code section 173 –	Sale or purchase of children – 0 cases;
Penal Code section 175 –	Disposing minors to engage in prostitution – 5 cases, the offender and the victim are the same in all cases, the cases have been joined into one criminal matter;
Penal Code section 176 –	Aiding prostitution involving minors – 2 cases;
Penal Code section 177 –	Use of minors in manufacture of pornographic works – 1 case;
Penal Code section 178 –	Manufacture of works involving child pornography or making child pornography available – 13 cases, several cases in respect of one victim by one and the same person;
Penal Code section 259 –	Illegal transportation of foreignes across state border of Republic of Estonia – 1 case. This is a case where citizens of the Republic of Latvia transported across the state border of the Republic of Estonia one Afghani family, which included 4 minor kids between 7 to 16 years of age;
Penal Code section 268^1 –	Aiding prostitution, this is a general section, acts against minors are not counted separately. Mediation of prostitution involving minors is being qualified under section 176 of the Penal Code section.

Source: Police Board

Examples for registered offences

3 cases of child stealing were registered in 2008. The offences were quite different from each other and not connected to trafficking in human beings.

- In one case, a male person was suspected of bringing sons of another person aged 12, 14 and 16 to live with him.
- In the second case, the mother of the cohabitee of a man was suspected of taking a child of the man to Finland for a week.
- In the third case, a woman with a mental disorder was suspected of child stealing; according to the suspicion, she stole a grandson of an elderly woman.

Court judgments

Examples of court judgments related to minors that entered into force in 2009:

- Two men aged 53 and 43 pimped a girl of 17 years of age on the territory of the Kingdom of Sweden. One of the men was sentenced with a pecuniary penalty of 15,000 kroons on the basis of § 176 of the Penal Code and the other was sentenced on the basis of § 268[1] with a pecuniary penalty of 22,500 kroons and imprisonment for 42 months, which was not executed in full. http://www.kohus.ee/kohtulahendid/temp/1-06-4624.pdf.
- A man aged 48 enticed eight underage girls aged 14-17 repeatedly to prostitution in an apartment under the tag of “sensual massage” (for men who called on the basis of the notice for sensual massage published in the *Pärnu Postimees*), giving a promise to the girls to have 500 kroons per day and to use a mobile phone and the apartment. The accused was an aider in prostitution of 8 women who performed sexual services for men who called on the basis of the notice for sensual massage published in the *Pärnu Postimees* in addition to the minors. The man was sentenced to imprisonment for 53 months, which was partially executed. http://www.kohus.ee/kohtulahendid/temp/kohtuotsus.pdf.

Article 8: The right of employed women to protection of maternity

Article 8 § 1: Maternity leave

General regulation and measures for implementation of legal regulation

In the observed period, Estonian women had the right to a maternity leave of 126 days – 70 days before and 56 days after childbirth. The pregnancy and maternity leave was extended to a total of 140 days in October 2002.

The Committee asks whether there is a compulsory period of post-natal leave, which a women cannot relinquish and if so the length of this period.

According to § 59 of the Employment Contracts Act (ECA), women have the right to pregnancy and maternity leave of 140 calendar days. The said leave becomes collectible no later than 70 calendar days before the estimated birth date given by a doctor or midwife. If a woman starts using pregnancy and maternity leave less than 30 days before the estimated birth date given by a doctor or midwife, the pregnancy and maternity leave is shortened by the respective period.

Compensation can be obtained for pregnancy and maternity leave in accordance with the Health Insurance Act. According to subsection 50 (1), benefit for temporary incapacity for work is financial compensation paid by the health insurance fund to an insured person on the basis of a certificate of incapacity for work in cases where the person does not receive income subject to individually registered social tax due to a temporary release from the his or her duties or economic or professional activity.

According to subsection 51 (2) of the Health Insurance Act (HIA), the insured event in respect of which the maternity benefit is paid to an insured person is the pregnancy and maternity leave of the person. Maternity benefit is paid to persons without pregnancy and maternity leave:

- persons entered in the commercial register as sole proprietors;
- persons receiving remuneration or service fees on the basis of a contract for services, an authorisation agreement or a contract under the law of obligations for the provision of any other services that is entered into for a term exceeding three months or for an

unspecified term, who are not entered in the commercial register as sole proprietors; and

- a person who is a notary public, sworn translator or bailiff registered with the regional tax centre of the Tax and Customs Board.

These employer's working relations are regulated not by employment agreements but by other agreements under Law of Obligations. They are usually self employed entrepreneurs who organize the exploitation of their leave themselves.

According to clause 54 (1) 4) and § 55 of the HIA, the maternity benefit is 100 percent of the average income per calendar day of the preceding calendar year. If social tax was not paid for the person in the preceding calendar year or the average income per calendar day of the person was lower than the quotient of the minimum monthly wage established by the Government of the Republic and the number 30, calculation of the benefit will be based on the minimum monthly wage established by the Government of the Republic.

According to subsection 56 (3) of the HIA, the right to receive maternity benefit arises as of the first day of release from the performance of work or service duties.

According to § 60 of the HIA, an insured person does not have the right to receive benefit for temporary incapacity for work if the person receives income subject to social tax for the period of the temporary incapacity for work, performs work or service duties or is engaged in business during the temporary incapacity for work. In such a case, the person loses the right to receive a benefit for temporary incapacity for work as of the date on which the person commenced performing the work or service duties or engaging in business. According to § 61 of the HIA, it is forbidden for employers to permit an insured person to assume their work or service duties at a time when they are released from the performance of their work or service duties as specified on the certificate of incapacity for work.

Taking the aforementioned into account, the conditions created by legislation are sufficiently advantageous in order for women not to waive the right to maternity leave.

Statistics

Table 8: Expenses on maternity benefits, 2007-2009.

Maternity benefit	2007	2008	2009	2008/2007	2009/2008
Number of certificates for incapacity for work	12,982	13,229	12,456	2%	-6%
Number of days	1,676,152	1,742,868	1,676,535	4%	-4%
Amount of benefit (kroons, in thousands)	459,507	586,209	661,232	28%	13%
Average income per day (kroons)	274	336	394	23%	17%
Average time for certificate for incapacity for work	129.1	131.7	134.6	2%	2%

Source: Estonian Health Insurance Fund

Article 8 § 2: Limits on cancellation of employment relations

General regulation

Subsection 92 (1) of the ECA prescribes that an employer may not cancel an employment contract due to an employee being pregnant or having the right to pregnancy and maternity leave. If an employer cancels an employment contract with an employee who is pregnant or raising a child under 3 years of age, it shall be deemed that the employment contract has been cancelled due to the aforementioned reason unless the employer proves that the employment contract was cancelled on a basis permitted in the ECA. In such a case, the employer must prove that the cancellation was legal. The burden of proof lies with the employer who has to prove that the employment contract was not cancelled on the aforesaid basis but on another basis permitted by legislation as pregnant women and persons raising a child of under 3 years of age are considered a group of employees who need additional protection.

Subsection 93 (1) of the ECA provides a specification for cancellation of employment contract with a pregnant woman or a person raising a child below the age of three years. An employer may not cancel an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity leave or a person who is on parental leave or adoptive parents leave due to a lay-off, except upon the cessation of the activities of the employer or declaration of the employer's bankruptcy if the activities of the employer cease or when the bankruptcy proceedings are terminated without declaring bankruptcy due to abatement of bankruptcy proceedings.

According to subsection 93 (2) of the ECA, an employer may not cancel an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity leave due to a decrease of the employee’s capacity for work. As the employer may not be aware of the pregnancy of the employee, the said provision only applies if the employee has notified the employer of her pregnancy before the receipt of a cancellation notice or within 14 calendar days thereafter. The employee is obliged to submit a certificate confirming the pregnancy at the request of the employer (subsection 93 (3) of the ECA).

Upper limit of benefits for a pregnant woman or an employee raising a child below the age of three years and termination of employment contract.

According to subsections 107 (1) and (2) of the ECA, if a court or labour dispute committee establishes that the cancellation of an employment contract is void due to the absence of a legal basis or the non-conformity to legislation or nullified due to conflict with the principle of good faith, it shall be deemed that the employment contract has not been terminated upon cancellation and the court or labour dispute committee will, at the request of the employer or the employee, terminate the employment contract as of the time when it would have been terminated in the event of validity of the cancellation. The court or labour dispute committee shall not satisfy the employer's request if, at the time of cancellation, the employee is pregnant or the employee has the right to a pregnancy or maternity leave unless it is reasonably impossible when considering mutual interests (subsection 107 (3) of the ECA).

The Committee concludes that the situation in Estonia is not in conformity with Article 8 § 2 of the Revised Charter on the grounds that the amount of compensation that may be awarded to a woman illegally dismissed is subject to a ceiling.

According to subsection 109 (2) of the ECA, if the court or the labour dispute committee terminates the employment contract with an employee who is pregnant or who has the right to pregnancy and maternity leave, the employer shall pay the employee compensation to the extent of six months' average wages of the employee. The court or the labour dispute committee may change the amount of the compensation, taking into account the circumstances of cancellation and the interests of both parties. The aforementioned six months is not defined as the absolute maximum limit of the benefit as the court has the right to change the amount of the benefit according to circumstances.

In addition to the aforementioned, the employee has the right to claim for additional compensation for damage on the basis of the Law of Obligations Act.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the webpage of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html). Instructions in Estonian, English and Russian regarding the rights of parents of children under 3 years of age and pregnant women at work can also be accessed on the webpage of the Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

It is possible both for employees and employers to receive information from the Labour Inspectorate via telephone as well as book an appointment regarding all issues related to employment relationships. It is possible to receive information related to employment relationships on every working day from the information number of the Labour Inspectorate. The Labour Inspectorate has also organised different training events introducing the ECA. The Labour Inspectorate is obliged to exercise supervision over complying with the requirements of the legislation regulating occupational health and safety.

Statistics

The Labour Inspectorate has collected statistics about petitions for contestation of cancellation regarding pregnant women, women with the right to pregnancy and maternity leave and persons on parental leave (§ 93 of the ECA) from 1 July 2009 due to the entry into force of the ECA. The following related petitions of employees have been submitted to the labour dispute committees:

1) 01 July 2009–31 December 2009 – 22 petitions; and
2) 01 January 2010–30 June 2010 – 13 petitions.

Article 8 § 3: Time off for women who are breastfeeding

General regulation

The Working and Rest Time Act was declared invalid on 1 July 2009 and the legislation for time off prescribed for women who are breastfeeding has been incorporated into the Occupational Health and Safety Act.

According to § 10 of the said Act, employers must create suitable working and rest conditions for pregnant women and women who are breastfeeding. Upon assigning work to pregnant women and women who are breastfeeding, employers shall observe the restrictions provided by legislation to ensure their safety. The occupational health and safety requirements for the work of pregnant women and women who are breastfeeding shall be established by the Government of the Republic with a Regulation. The employer is obliged to give time off to pregnant women at the time indicated in the decision of the doctor for ante-natal examinations, which shall count as working time.

Women who are breastfeeding have the right to additional breaks for breastfeeding children until the child reaches the age of 18 months. Additional breaks are granted every three hours with a duration of no less than 30 minutes on each occasion. The duration of a break granted for feeding two or more children less than 18 months of age shall be no less than an hour.

The breaks for feeding a child are considered working time and average wages calculated on the basis of the Employment Contracts Act will be paid for them from the state budget through the budget of the area of government of the Ministry of Social Affairs, unless the mother is paid the parental benefit for raising the child.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers.

Instructions in Estonian, English and Russian regarding the rights of parents of children under 3 years of age and pregnant women at work can be accessed on the webpage of the

Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

It is possible both for employees and employers to receive information from the Labour Inspectorate via telephone as well as book an appointment regarding all issues related to employment relationships. It is possible to receive information related to employment relationships on every working day from the information number of the Labour Inspectorate. The Labour Inspectorate has also organised different training events.

Statistics

Table 9: Money paid to families from the state budget for break for feeding child, 2005-2009.

Paid break for feeding child	2005	2006	2007	2008	2009
Number of receivers, end of the year	128	109	100	55	38
Number of compensated hours, during the year	9,733	6,465	7,009	4,360	2,823
Sums paid during the year, kroons, in millions	0.7	0.4	0.6	0.4	0.3

Source: Social Insurance Board

The reason for the decrease in the number of persons is the Parental Benefit Act that entered into force on 1 January 2004, which has thereafter been repeatedly and favourably amended. According to the current regulation, the parental benefit is designated for 435 days after the end of the maternity benefit.

Article 8 § 4: Restrictions on working at night

General regulation

Persons may request a transfer from night work to day work if a doctor recommends that his or her health may be adversely affected by night work and if the employer has the possibility to do so. Where the employer does not have the possibility to transfer a worker to day time work, the employee may temporarily have his or her contract suspended with the consent of the Labour Inspectorate. The Committee wishes to know whether in these circumstances the employee will be remunerated or receive any other form of payment.

Pending receipt of the information requested the Committee defers its conclusion.

Regulation no. 50 of the Government of the Republic "Occupational Health and Safety Requirements for Work of Pregnant and Breastfeeding Women" of 7 February 2001 regulated the situation until 30 June 2009. According to subsection 18 (1) of the ECA that entered into force on 1 July 2009 and Regulation no. 95 of the Government of the Republic "Occupational Health and Safety Requirements for Work of Pregnant and Breastfeeding Women" of 11 June 2009, pregnant women and women who have the right to pregnancy and maternity leave have the right to demand that the employer temporarily provide them with work corresponding to their state of health if the health of the employee does not allow for the performance of the work duties provided in the employment contract on the agreed conditions.

The right to demand work corresponding to the state of health includes the right to demand a suitable organisation of working time, for example the right to refuse to perform night work. According to subsection 18 (2) of the ECA, the employee may temporarily refuse to perform work duties if the employer cannot provide the employee with work corresponding to their state of health.

The possible difference in remuneration between the work corresponding to the health of the employee and the work specified in the employment contract will be compensated for the employee under the conditions and according to the procedure provided for in the Health Insurance Act. According to § 56 of the Health Insurance Act, an employee has the right to a benefit for temporary incapacity for work if the employee has temporarily refused to perform

work duties on the basis of subsection 18 (2) of the ECA. The benefit will then be paid in the amount of difference in wages or in the rate of the benefit.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and the private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the webpage of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html). Instructions in Estonian, English and Russian regarding the rights of parents of children less than 3 years of age and pregnant women at work can also be accessed on the webpage of the Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

It is possible both for employees and employers to receive information from the Labour Inspectorate via telephone as well as book an appointment regarding all issues related to employment relationships. It is possible to receive information related to employment relationships on every working day from the information number of the Labour Inspectorate. The Labour Inspectorate has also organised different training events introducing the ECA. The Labour Inspectorate is obliged to exercise supervision over complying with the requirements of the legislation regulating occupational health and safety.

Statistics

The information system of the Estonian Health Insurance Fund contains information about paying all of the sickness benefits; unfortunately, it is not possible to bring out paying sickness benefits for transfer to an easier job or position separately.

Table 10: Number of petitions submitted to the Labour Inspectorate for transfer of pregnant women to an easier job or position.

Petition	**§**	**2005**	Consent given	**2006**	Consent given	**2007**	Consent given	**2008**	Consent given	**2009***	Consent given
Termination of employment contract with a pregnant woman or a parent of a child less than 3 years of age	On the basis of subsection 92 (2) of the ECA	99	74	87	64	136	104	162	122	190	155
Transfer of pregnant women to an easier job or position	On the basis of subsection 62 (3) and 63 (2) of the ECA and on the basis of 51 (2) of the Public Service Act	1,512	1,460	1,389	1,342	1,618	1,577	1,640	1,593	836	823

*01.01-30.06.2009

Source: Labour Inspectorate

Article 8 § 5: Prohibited work

General regulation

The sphere handled in Article 8 (5) is regulated by the following legislation:

1) Regulation no 95 of the Government of the Republic “Occupational Health and Safety Requirements for Work of Pregnant and Breastfeeding Women” of 11 June 2009; and
2) Regulation no 26 of the Minister of Social Affairs “Occupational Health and Safety Requirements for Manual Handling of Loads” of 27 February 2001.

Regulation no 50 of the Government of the Republic “Occupational Health and Safety Requirements for Work of Pregnant and Breastfeeding Women” of 7 February 2001 regulated the situation until 30 June 2009. The said Regulation was replaced from 11 June 2009 with Regulation no 95 of the Government of the Republic “Occupational Health and Safety Requirements for Work of Pregnant and Breastfeeding Women” of 11 June 2009, which is applied to the work of pregnant and breastfeeding women to ensure a working environment that is safe for their health. §§ 2, 3 and 6 of the Regulation also apply to female workers who have the right to a pregnancy and maternity leave but are not breastfeeding. These groups of female workers are observed as sensitive risk groups who must be protected from the hazards of the working environment that affect them. If the said female workers may come be exposed to the listed hazards or hazardous work processes, it is the obligation of the employer to provide these workers with conditions that are safe for work.

The leading idea of the Regulation is that the risk assessment must include the health hazards of pregnant and breastfeeding women or women who have recently given birth who work in the company. The obligation of the employer starts from the moment the pregnant or breastfeeding woman or a woman who has recently given birth notifies the employer of her condition on the basis of a medical certificate. Precautions are listed in the Regulation that the employer is obliged to implement to protect pregnant and breastfeeding women or women who have recently given birth.

In order to ensure a safe working environment for the female worker, the employer has to temporarily provide the female worker with work that is in accordance with her state of health and prevents being exposed to hazards. The employer may use different possibilities for this,

above all the easement of working conditions and changing of the organisation of working time or work duties.

The Regulation specifies work that is not permitted for pregnant women. The employer may not allow a pregnant woman to work if there is a risk of being infected with the rubella virus or toxoplasmosis or if there is a risk of being exposed to lead or a compound thereof. Underground work is also not permitted for pregnant women.

The Regulation specifies work not permitted for breastfeeding women. Work that involves coming into contact with lead or a compound thereof is not permitted. Underground work is also not permitted.

Physical, chemical and biological hazards that the employer is obliged to take into account when assessing the risks to health of female workers are listed in the Regulation. The employer must implement precautions to ensure a working environment that is safe for health if the presence of a risk becomes apparent as a result of the risk assessment or the female worker becomes exposed to the hazards or work specified in the Regulation. When choosing and implementing the precautions, the employer must consult with the female worker and, if necessary, with a doctor to whom the female worker is registered, or an occupational health doctor who is familiar with the working environment of the enterprise.

Physical hazards may cause damage to the foetus or miscarriage. These hazards are contusions, vibration, noise, harmful radiation, high or low air temperature. A level of contact with the hazard that exceeds the implemented action values during an 8-hour working day is considered to be harmful.

Chemical hazards may harm the health of the pregnant woman and the foetus. Dangerous chemicals or preparations that are marked with risk phrases R 40, R 45, R 46 or R 61, R 63, R 64 according to the Chemicals Act are presented in the Regulation. The meaning of the risk phrases is the following:

1) R40: possible irreversible effect;
2) R45: may cause cancer;
3) R46: may cause inherited genetic damage;
4) R61: may harm the foetus;
5) R63: possible risk of harm to the foetus; and
6) R64: may harm a breastfed child.

The list also includes mercury and compounds thereof, carbon monoxide, organic solvents, chemicals that may harm the health when absorbed through the skin and antimitotic substances that limit cell division, causing damage to the genetic information of ova.

In case of biological hazards, infection of the pregnant woman may harm the foetus. Viral hepatitis (B, C), chickenpox virus, HIV, herpes virus, mycobacterium tuberculosis and typhus bacteria are the most dangerous ones.

Working processes involving a hazard of being exposed to a carcinogen, mutagen or a substance toxic for reproduction have been presented separately.

In the Regulation no 26 of the Minister of Social Affairs "Occupational Health and Safety Requirements for Manual Handling of Loads" of 27 February 2001, manual handling of loads is brought out as a physical hazard that may cause damage to the foetus and preterm birth. According to the Regulation, manual handling of loads is forbidden for pregnant women and for female workers for 3 months following childbirth.

If risks to health and safety cannot be eliminated the employer must transfer the employee to another job or if this is not possible the employer may temporarily suspend the employee's contract. The Committee asks whether in these circumstances the employee will be remunerated or receive any other form of payment.

The employee has the right to a benefit for temporary incapacity for work according to § 56 of the Health Insurance Act. In this case, the sickness benefit will be paid in the amount of difference in wages (if the female worker is temporarily performing lower paid work) or in the rate of the sickness benefit (if the female worker has been relieved of performing work).

Please also see explanations given for Article 8 § 4.

Measures for implementation of legal regulation

The Labour Inspectorate inspects the implementation of the above requirements by employers.

Statistics

Please see Table 10 (Article 8 § 4).

Article 16: The right of the family to social, legal and economic protection

The importance of children and family policies is illustrated by the fact that the Department of Children and Families was created in the Ministry of Social Affairs in 2010. The creation thereof was already planned in 2009. The main goal of the Department of Children and Families is to plan and implement policies of children's rights and child protection and to govern the forming of family policies with the aim of ensuring the appreciation of each and every child as well as a well organised child protection system and the increase in welfare of families. The Department also organises international adoption.

Housing for families

General regulation, measures for implementation of legal regulation, statistics

According to § 9 of the Use of Privatisation Proceeds Act, the local government will use the funds received in the ownership reform reserve funds of the local government in the procedure established by the local government council to, *inter alia*, construct or buy social housing.

The development of social housing is supported in the framework of Regulation no 3 of the Minister for Regional Affairs "Conditions for Measure "Development of City Regions" and Procedure for Composing Plan of Investments" of 15 May 2008 established on the basis of the Structural Assistance Act for the Period 2007-2013.

The Committee notes that between 2000 and 2004, 9,056 young couples obtained loans from the Estonian KredEx credit and export guarantee fund. Since 2003, KredEx has also been awarding grants to housing associations for renovation work on housing built before 1990. These grants cover 10% of the cost of the work. The Committee asks how families benefit from this and repeats its question on current measures to promote the construction of housing of an appropriate size for families. It also asks for detailed information in the next report on whether or not there are housing benefits for families.

The executors of the national housing policy are the Ministry of Economic Affairs and Communications, the Ministry of Social Affairs, the Ministry of Internal Affairs and the Ministry

of Justice along with the KredEx (Credit and Export Guarantee Fund, www.kredex.ee). Local governments and relevant non-profit associations active in the field are also participating.

The KredEx has issued securities for housing loans through banks since 2000. The offering of national securities for housing loans to young families, young specialists and lessees of residential buildings that were restituted to legal owners was successful from 2000 to 2006.

- During 2000-2006, 11,248 young families were supported in buying or renovating their home. The average amount of loan was 417,098 kroons and the average duration of the loan was 19 years.
- Support was offered to help improve the living conditions of 5,255 young specialists. The average amount of loan, which was usually taken for 20 years, was 475,626 kroons and the average security was 98,185 kroons.
- 53 lessees of residential buildings restituted to legal owners had used state support in the form of a national security for housing loan to buy new housing by 2007, including 5 lessees of residential buildings restituted to legal owners in 2006.
- The total amount of security obligations assumed with contracts of suretyship was 564,269,476 kroons by the end of 2006 and the total value of the collateral of the loans was 5,273,211,129 kroons. The average amount of loan was 435,780 kroons and the loans were most often used to buy an apartment.

Grants for renovation work of residential buildings were given from the funds of KredEx until 2007. Since 2009, it is possible to apply for subsidised loans for reconstruction of apartment buildings for the purpose of energy conservation from the ESF.

In 2008, the Republic of the Government approved the Estonian National Housing Development Plan for 2008-2013 (http://www.valitsus.ee/failid/_eluasemevaldkonna_arengukava_2008_2013.pdf). The intermediate body of the development plan is the KredEx.

According to the development plan, measure 1.2 for the accessibility of housing is the improvement of conditions for obtaining of housing. The following activities are used to implement the measure:

1) deduction of interest for housing loans from taxable income. Persons who have taken a housing loan are the target group. According to the provisions of the Income Tax Act, a resident has the right to deduct interest payments made during a period of taxation for a loan or finance lease taken in order to acquire a house or apartment for

himself or herself from the income that he or she receives during the period of taxation. Interest payments for a loan or lease taken in order to acquire a plot of land in order to build a house may be deducted from income under the same conditions. A respective analysis will be carried out regarding the further conditions for implementation of the measure. Upon securing housing loans, the persons belonging to target groups determined by the Government of the Republic have the right to a state guarantee for housing loan. The self-financing rate of housing loans by the target groups is specified annually in the activity plan and may vary from target group to target group. The persons who benefit from this are persons who have taken a housing loan – the number of these persons was at least 102,975 in 2008. The number of persons who benefitted was 134,000 in the year 2009. The Tax and Customs Board is liable for the activities; and

2) state guarantee of housing loans. The target group is formed of young specialists, young families, lessees of residential buildings restituted to legal owners and young persons without parental care. The number of households belonging to the target group who received state guarantee issued by the KredEx was 1,621. 380 young families used surety to the extent of 58.3 million kroons and 419 young specialists used surety to the extent of 59.5 million kroons in 2009. The KredEx Foundation is liable for the activities.

Measure 1.3 constitutes improving of housing conditions – this is directed at improving the housing conditions of persons with difficulties in coping by offering them the possibility to lease subsidised municipal and private housing (social housing). The following activities are used to implement the measure:

1) home benefits to families with many children. The target group is formed of families with many children. Credit institutions are liable for the activities. The benefit is directed at families with at least four children of up to 19 (included) years of age and whose income per household member has been up to 4,350 kroons per month on the basis of the income tax returns of the last 2 calendar years. The family must live in residences being an object of the project based on registration in the population register or be registered in the population register to the same address (in case of acquiring or constructing new housing). Activities that are eligible for aid are:

- construction, reconstruction or expansion of housing;
- acquiring housing for the household;
- supporting the repayment of the principal amount of loan or the payment for self-financing for housing loans;

- changing or replacing of utility systems of housing;
- renovation of housing that is not construction for the purposes of the Building Act; and
- covering of costs related to composing the building design documentation necessary to implement the project, owner supervision and applying for a building permit or written approval from the local government for construction.

The state covers the cost of the projects of the applicants directed at improving the housing conditions to an extent of 90-100% of the cost of the project. The rate of the benefit depends on the income per household member on the basis of the income tax returns of the last two years of the household of the applicant.

46.3 million kroons were allocated to KredEx for supporting families with many children and a total of 336 applications for benefit were satisfied in 2009. A total of 131,381,000 kroons were paid out in 2009 based on agreements that were entered into both in 2008 and 2009. The benefit for families with many children has been used to improve the living conditions of 759 families and 3,824 children growing in them in total.

The Committee refers to its conclusion with regard to Article 19 § 4, in which it notes that under the Social Welfare Act, local authorities must offer housing to persons or families who cannot meet their housing needs on their own. The Committee notes that persons without a permanent residence permit are prohibited from making a request for social housing. The report states that exceptions are made for some people in specific circumstances. The Committee asks for the next report to explain in detail the rules on access to social housing applicable to families without a permanent residence permit as well as the cases of exceptions. Meanwhile, it reserves its position on this point.

The right to housing (including a social apartment) is not related to the conditions of being a permanent resident.

According to § 4 of the Privatisation of Residences Act, the entitled subject to privatisation of residences is:

1) a lessee of a residence that is used on the basis of a lease contract or an adult family member permanently residing with him or her according to a mutual written agreement approved by the obligated subject between the lessee and the adult family members residing with him or her and the previous adult family members of the lessee residing in the same residence;
2) an Estonian citizen of at least 18 years of age;

3) a foreigner of at least 18 years of age who has a permanent residence permit specified in the Aliens Act or a temporary residence permit for residing in the Republic of Estonia; the foreigner had moved to Estonia before 1 July 1990 before obtaining the residence permit, had a permanent address registration in the former Estonian SSR and is continuing to reside in Estonia;
4) a foreigner of at least 18 years of age who is residing in Estonia on the basis of right of residence according to the procedure provided for in the Citizen of European Union Act; and
5) a legal person registered in the Republic of Estonia who is the entitled subject for privatisation according to the Privatisation Act.

According to § 4 of the Social Welfare Act, the social welfare subject (this includes the right to receive housing services) is:

1) a permanent resident of Estonia;
2) an foreigner residing in Estonia on the basis of a residence permit or right of residence; and
3) a person enjoying international protection staying in Estonia.

Every person staying in Estonia has the right to receive emergency social assistance, including the right to temporary abode.

Lease of a residence may be applied for by persons whose information regarding the place of residence has been entered into the population register. According to § 32 of the Population Register Act, a person is registered in the population register if a vital statistics office of Estonia has registered his or her birth according to the Vital Statistics Registration Act or if data of a document certifying the birth of the person is entered in the population register and Estonian citizenship is entered in the population register as the data of at least one of his or her parents or a document certifying Estonian citizenship has been issued to the person or the person is granted Estonian citizenship or the person is issued a residence permit or granted right of residence.

Estonia has 226 local governments: 33 cities and 193 rural municipalities. Providing an overview of all the legislation of local governments is not possible in this report. Approximately 1/3 of the population of Estonia is living in the largest local government – Tallinn. The legislation of Tallinn often sets an example to the legislation of other local municipalities. Supervision is exercised over the legislation of local governments by both the

County Governor and the Chancellor of Justice. Discriminatory provisions are unconstitutional and will be repealed.

According to the explanations of the Tallinn City Property Department, the city council of Tallinn has adopted the Regulation “Approving of Legislation Related to Residences Owned by Tallinn” (https://oigusaktid.tallinn.ee/?id=3001&aktid=90140&fd=1&q_sort=elex_akt.akt_vkp).

The procedure for use, disposal and possession of residences owned by Tallinn was approved with the said Regulation. Clause 25 of the procedure specifies that municipal and social residences are leased for one to five years. A residential lease contract will be entered into with persons not having a permanent residence permit of Estonia, taking into account the specifications of the previous sentence, but to the extent of the validity of the residence permit at most. According to Clause 24, the city district government will, on the basis of the motion by the housing committee of the city district, present a draft order of the city government to the city government regarding the lease of a municipal or social residence.

The procedure for maintaining a register of persons applying for lease of residences owned by Tallinn was also approved with the said Regulation. Clause 3 of the procedure specifies that a register of persons applying for lease of residences will be maintained. The following persons will be registered as not having a residence:

1) persons whose residence in Tallinn that they used on a legal basis has become unusable due to *Force majeure*. Extraordinary events (natural disasters, fires, explosions, etc.) that could not be foreseen or prevented with reasonable activities and for the causing of which the owner or lessee of the residence cannot be responsible for are considered to be *Force majeure*;
2) persons who are owners or lessees of a residence in Tallinn that is subject to demolition due to expropriation of the land or end of the right of use for municipal needs;
3) persons released from custodial institutions, if returning to the former residence is impossible;
4) orphans and persons without parental care who are returning to the previous residence from a child care institution, from parents, guardians or curators, also after studying in an educational institution if returning to the previous residence is impossible. Orphans and persons without parental care who are registered as applicants for a municipal residence but are given lease of a social residence will

remain registered as applicants for a municipal residence when becoming lessees of the social residence with the initial date of registration in the register remaining; and

5) for other good social reasons.

The following persons will be registered as needing support for improvement of living conditions:

1) persons using a residence in danger of collapse or an unusable residence owned by Tallinn on the basis of a lease contract;
2) elderly persons living alone, elderly couples and disabled persons who do not have persons to provide them maintenance or who need personal assistance or it is impossible to organise care for them in the residences they are currently using;
3) underprivileged families with children who are in need of social services; and
4) persons in need for other good social reasons.

According to Clause 4 of the said procedure, a written application for lease of a residence will be submitted to the city district government on whose territory the last residence of the applicant is or was according to the data of the population register. The application will be submitted in person or by a legal representative or by mail. According to Clause 11, the secretary of the housing committee will inform the person in written form regarding his or her registration as a person applying for lease of a residence within ten working days of the decision of the housing committee of the city district. The written notice will include the date of registration, the reason specified in Clause 3 of the procedure according to which the person was registered as an applicant for lease of a residence and whether the person was registered as an applicant for a municipal or social residence. The obligation of updating and confirming information must be explained in the written notice. The secretary of the housing committee will provide reasons as to why the person was registered as an applicant for a social residence if the person was applying for a municipal residence but the housing committee of the city district decided to register the person as an applicant for a social residence. Likewise, the secretary of the housing committee will provide reasons as to why the person was registered as an applicant for a municipal residence if the person was applying for a social residence but the housing committee of the city district decided to register the person as an applicant for a municipal residence. Upon refusal to register the person, the secretary of the housing committee will inform the person in written form within ten working days of the respective decision, providing the reasons for refusal. According to Clause 12, secretaries of the housing committee will maintain records of persons registered as applicants for lease of a residence by the reasons for applying for lease of a residence. Records are maintained separately for applicants for municipal and social residences.

Providing of emergency social assistance has to be ensured for all persons requiring emergency social assistance.

Child care facilities

General regulation, measures for implementation of legal regulation, statistics

The Committee assessed in its previous conclusion (Conclusions 2004, pp. 184 and 185) the situation as regards child care services, which it found to be in conformity with the revised Charter. It asks for up-to-date information on this point in the next report.

Child care institutions are divided into municipal and private institutions. According to the age of children and taking special needs into account, municipal nursery schools are divided into: crèches (for children of up to 3 years of age); nursery schools (for children of up to 7 years of age); nursery schools for children with special needs (for children with special needs who are up to 7 years of age). A nursery school may be combined with a primary school (nursery-primary school) or a basic school (nursery-basic school). Child care institutions take into account the Preschool Child Care Institutions Act, Local Government Organisation Act, other legislation and Statutes when conducting their activities. It is the duty of the local government to provide all children from 18 months to 7 years of age whose residence is in the administrative territory of the given rural municipality or the city and whose parents so wish with the opportunity to attend a child care institution in the catchment area.

By 2009, there were 635 preschool child care institutions in Estonia with a total of 62,804 children attending them according to Statistics Estonia. There were 6 crèches (334 children), 525 nursery schools (58,597 children), 4 nursery schools for children with special needs (183 children) and 100 nursery-primary schools (3,690 children). There were private nursery schools in 22 local governments in Estonia based on data from 2008. There were 14,637 children aged 0-2 in child care institutions. This forms 35% of children in the given age group. There were 48,167 children aged 3-6 in child care institutions. This forms 87% of children in the given age group.

The purpose is to ensure a smooth transfer from one level of education to the next. The proportion of children taking part in preschool is therefore very important. Over 90% of children had been in a child care institution when going to school in 2009. The purpose for

2010 is for 95% of children and 98% in 2013 to have attended a preschool child care institution.

- 75 million kroons were allocated through the national programme “A Place in Nursery School for Every Child” for constructing new nursery schools and extending and renovating the existing ones in 2008. The programme prescribed the means for creating new and renovating the existing places for preschool child care institutions, improvement of the study environment of child care institutions and allocation of funds for wages of teachers of child care institutions from the state budget. Thanks to the funds, 520 new places in nursery schools were created and the nursery and preschool conditions of a few hundred children in nursery schools were improved in 2008.
- Based on the data of 2008, 6 local governments were making preparations for constructing new nursery schools or were already constructing them. 5 local governments were renovating nursery schools and 12 were active in gathering new groups to old nursery schools. Several alternative possibilities were also used, such as supporting child-minders and private nursery schools or paying for other private services.

Funding for child care institutions is received from:

1) the funds of the state budget and the rural municipality or city budget;
2) funds of the state budget on the basis of grounds provided in the Adult Education Act;
3) the part covered by parents; and
4) donations.

4,769 kroons per month per child attending nursery school was invested to the local nursery school; 4,007 kroons per child of that sum was covered by the local government in 2008. In 2007, local governments covered an average of 88% of all the expenses of day care. The respective indicator was 67% in 2008. The decrease in the share of local governments is mostly caused by the increase of the share of the state in the service of day care for children. Preschool child care institutions received 75 million kroons for development of the study environment and 75 million kroons for wages of teachers in the framework of the national programme in 2008.

Family counselling services

General regulation, measures for implementation of legal regulation, statistics

The Committee asks for up-to-date information in the next report on family counselling services and whether and how families' views are taken into account when devising family policies.

The organisations and institutions that provide counselling services can be distinguished both in the state sector and the private sector as well as the third sector. At the national level, the Ministry of Education and Research and the Ministry of Social Affairs and their divisions are mostly responsible for exercising activities in the field of counselling. Local governments play an important role in family counselling. Local governments have the information about institutions offering family counselling services in the given region.

The purpose of family counselling is to increase the ability of family members to solve issues jointly. Family counselling consists of counselling, instructing and psychotherapeutical care for issues related to human relations, family life and raising children. The psychologist-counsellor attends to the person individually if needed or by involving other family members, whereas different therapeutic treatments, conciliation and other such methods are used. The family counselling service consists of: counselling, finding the problems and pointing at the path to the solutions, finding resources for the family, shaping the social network, raising the level of self-confidence and social skills; instructing and counselling in issues related to family life and raising children (conditions necessary for raising and taking care of children, issues related to hygiene, meals, budget).

Services of family counselling:

- family conciliation service – related to family conflicts and divorces. The most common issues that are solved are issues related to taking care of children and the raising thereof, issues related to economic support for children and all kinds of issues related to differences of opinions in the family. The said service is generally provided at the person's own expense;
- debt counselling – a social service that includes different actions to help the debtor in case of a debt. The debt counselling service includes counselling and instructing the person and prevention of taking further loans. The purpose of debt counselling is to catch up with excessive arrears or make them bearable, prevention of taking further loans by strengthening coping skills as well as solving other problems related to debt issues in cooperation with other organisations. At the same time, another purpose is

to make the debtor aware of the reasons for and consequences of excessive arrears and to teach the debtor to avoid new arrears in the future and to maintain a balance between income and expenses. The debt counselling service is generally free of charge to persons entitled to the service;

- support person service – the purpose of this social service is to support and guide a single person or more than one persons living together in the performance of their obligations or coping with difficult situations in everyday life. The target group of the service is formed of parents who need help with taking care of their children and creating a safe environment for raising children. Support persons for children are also available in addition to support persons for adults. They assist children in carrying out educational activities and teach and encourage the child to cope with everyday life. Support persons have been trained or the service has been provided by, for example, the Dharma Foundation, NGO Counselling Centre for Families and Children and NGO Tartu Child Support Centre;
- the Health Insurance Fund started offering and financing a crisis counselling in case of pregnancy in 2007. The service is provided by specialists who have completed a special state funded in-service training and the service is provided in nearly all counties and via phone and internet as well. The purpose of the service is to support the woman, her partner and those close to her in the periods of pregnancy planning, pregnancy and the period after childbirth in coping with the physical, social and psychological changes or traumatic experiences that are related to becoming pregnant, a miscarriage or termination of pregnancy, pregnancy, childbirth and motherhood and being a parent. The service is not yet accessible to everyone as the service is provided in certain cities and health care institutions; and counselling for the period before and after childbirth is provided on the internet (www.perekool.ee), where midwives, breastfeeding counsellors and other counsellors with whom the Health Insurance Fund has entered into an agreement with provide answers to questions. In addition to that, there are counselling centres for young persons all over Estonia where support can be received. Information can be received at: http://www.amor.ee/16129.

The Ministry of Social Affairs takes improvement of parental education very seriously:

- future parents who are preparing for childbirth have the possibility to attend parental education classes, which may be founded by a health care institution or the private sector. A fee is charged for the parental education classes and the price depends on

the service provider. Parental education classes are financed from both the budget of the Health Insurance Fund and the Gambling Tax Council; and

- the Ministry of Social Affairs organises discussion events of parental education in order for parents to be more aware.

Most information about the necessities and situation of families is received from various studies related to families. The most recent of these are:

- Kasearu, Kairi (2009): Changing Family Values in Estonia, organiser/donor: University of Tartu/Bureau of the Minister of Population;
- Trumm, Arvo (2009): Monetary Support of Families in the European Union 2007, organiser/donor: AS Resta /Bureau of the Minister of Population;
- Ministry of Social Affairs (2009): Analysis of National Measures Related to Family Policies; and
- all the studies are available on the webpage of the Ministry of Social Affairs: http://www.sm.ee/meie/uuringud-ja-analuusid/sotsiaalvaldkond.html.

In order to involve families with children in the legislative process, draft legislation related to children and families is sent to organisations representing children and families in order for them to give their opinions and the organisations are also involved in drafting legislation. For example, the Ministry of Social Affairs involved professional associations, other Ministries, local governments and organisations of the third sectors who are aware of the needs of the families in certain regions for elaborating the “Development Plan for Children and Families”. The Union for Child Welfare, Estonian Association of Parents, the Union of Large Families of Estonia, the Chamber for Protection of Children’s Interests, the Ministry of Education and Research, the Ministry of Justice, the Ministry of Culture, the Ministry of Internal Affairs, the Ministry of Finance and other organisations and institutions are involved. Regular meetings of the staff of Ministries with the representatives of children and families also take place. The purpose is to receive thorough information about the actual situation and compose a development plan that meets the expectations of families.

Mediation services

General regulation, measures for implementation of legal regulation, statistics

The report states that persons wishing to divorce may consult a family counsellor or the local social services office or institute judicial proceedings. The draft of the new Code of Civil Procedure places much emphasis on the need to foster conciliation during divorce proceedings. At all stages in such proceedings, courts must encourage the parties to seek an agreement. The Committee asks for more information on the role of social services offices and the frequency of the use of such procedures. It asks whether it is planned to set up a fully-fledged country-wide mediation system.

Parents have equal rights and obligations with respect to their children according to the Family Law Act. Parents who are living separately from their children have the right to maintain personal contact with the children. If parents fail to reach an agreement about maintaining contact with the children, the guardianship authority or court is responsible for resolving the dispute, taking into account the interests of the child. The opinion of children of over 10 years of age will also be heard in such proceedings.

Subsection 4 (4) of the Code of Civil Procedure provides a general principle that during proceedings, the court will take all possible measures to settle the case or a part thereof by compromise or in another manner by agreement of the parties if this is reasonable in the opinion of the court. For such purpose, the court may, *inter alia*, present a draft of a contract of compromise to the parties or request that the parties appear before the court in person, or propose that the parties settle the dispute out of court or call upon the assistance of a mediator. The court may obligate the parties to participate in mediation procedure provided in the Mediation Act if the court deems it necessary in the interests of adjudication of the matter, taking the circumstances of the case and the course of proceedings into account.

Mediation procedure in family matters has been provided in case of violation of a ruling regulating access to child according to § 563 of the Code of Civil Procedure, but a special mediator has not been assigned for family matters. A more accurate regulation of the mediation proceeding is provided in the Mediation Act, but also in Chapter 62^1 of the Code of Civil Procedure.

Domestic violence against women

General regulation, measures for implementation of legal regulation, statistics

Improvements in legislation concern the application of the restraining order under the new Code of Civil Procedure that entered into force on 1st of January 2006 and from July 2006 under the Code of Criminal Procedure.

In 2006 there was a change in state law that states that when divorcing and dividing common property in court, one is obliged to pay a state fee of one percent of the value of the property. Before the amendment, the state fee was a fixed sum – 2600 Estonian kroons. There is a possibility in the law to apply for an exemption or reduction of the sum, or pay it in different parts.

The national victims support system started working in 2005. Most of the regional victims support officials work in local police units and therefore the police participate actively in the system. Please see also explanations fgiven for Article 7 § 10.

In autumn 2006 NGO Vägivallast vabaks (“Free from Violence”) started counselling services for men sentenced for violence.

The amount of state compensation provided according to the Victim Support Act was increased from 1 January 2007. The new amount is 80% of the damage caused, but not more than 150,000 kroons (€9,587.97). The person who committed the offence is liable for the full compensation for the damage.

An amendment to the Victim Support Act entered into force on 2007, providing the content and nature of the state conciliation service. Conciliation proceedings apply to crimes in the second degree; the parties to the crime in the second degree, that is, the victim and the suspect or the accused are conciliated. Providing of the conciliation service is ensured by the Social Insurance Board and the conciliation is carried out by victim support specialist who has received the respective training. The training programme has been approved by the Minister of Social Affairs. All victim support specialists have completed the conciliation training by the end of 2010. The purpose of conciliation proceedings is to reach an agreement for the conciliation of the suspect or the accused and the victim and to compensate for the damage caused by the offence. Conciliation enables the victim to be further involved in the decision-making procedure and to alleviate tensions, fear, anger and other such feelings that were caused by the offence. The interests of the victim are first and foremost considered when carrying out conciliation proceedings. Conciliation raises the

esteem of the victim and increases the person's inclusion. Both parties to the offence are dealt with when carrying out conciliation. The decision to terminate criminal proceedings by means of conciliation proceedings will be made by the Prosecutor's Office or the court on the approval of the parties. Conciliation proceedings will end with the parties entering into a written conciliation agreement. The conciliation agreement includes the procedure and conditions for compensating for damage caused by the offence, but it may also include other conditions such as performing actual deeds. The main role of the conciliator is to direct the parties to an agreement that can be realistically performed (for example the performance of certain work duties for the victim, taking the obligation to undergo treatment and taking part in therapy, etc.).

In 2008-2010, Estonia participated in the international project "Social and Health Care Teachers against Violence HEVI 2008–2010" run by the Centre for International Mobility (Helsinki). The aims of the project were among others to support teachers to update their knowledge about intimate partner violence (IPV), European research and new principles and measures in preventing violence, and to improve teachers' abilities to meet new challenges of IPV prevention that originate from practical work in the health and social care sector on the national level as well as from European cooperation. The project produced social and health care teachers' training curricula on IPV and the teaching guidebook.

A new development plan for the years 2010-2014 to reduce violence was adopted in April 2010. The plan includes among other topics the fight against domestic violence. The main areas of action are victim support, rehabilitation of perpetrators, prevention of violence, training events for specialists and improvement of data gathering. The Ministry of Justice is responsible for the writing and implementing of the development plan. Please see also explanations given ffor Article 7 § 10.

The Committee however notes from another source[2] that domestic violence against women is widespread but few cases are reported. According to the same source, there are not enough shelters for victims of violence – a fact that was also acknowledged by the Minister of the Interior. The Committee invites the Government to provide an extensive description of the situation in accordance with the request contained in the general introduction.

Estonia has conducted few studies (2001, 2003, 2004, 2005, 2006, 2007) on domestic violence and violence against women. In 2008-2009 Statistics Estonia conducted a survey

[2] Council of Europe Commissioner for Human Rights, report on his visit to Estonia from 27 to 30 October 2003, CommDH(2004)5, 12 February 2004.

on safety issues, including domestic violence. According to Statistics Estonia, approximately half of respondents have experienced mental, physical and/or sexual violence in their relationship. Although men also experience intimate partner violence, women are victims more frequently, and their injuries and other consequences of violence are more serious. The highest risk of violence is among young (until 29 years) cohabiting women and men.

The number of domestic violence cases reported to police has varied during the years 2004-2009. The number reached its peak in 2005 when 5414 cases of domestic violence were registered of which 877 were registered as crimes. In 2009 there was 3354 registered cases, out of which 368 were registered as crimes. The reasons behind the decrease should be studied further, but they may indicate the need to carry out more public campaigns against domestic violence and conduct further training events for the police.

Currently, there are 9 women's shelters and 2 mother and child shelters in Estonia, which provide temporary shelter for women with or without children. Besides offering support and shelter to the victims, the shelters provide information and preventive and follow-up activities. In 2009 shelters helped 432 victims of domestic violence (the number also includes children). Women's shelters are run by NGOs and partially funded by the State (through the Gambling Tax Board). A country-wide hotline for female victims of violence was opened up in March 2008.

Family benefits

General regulation, measures for implementation of legal regulation

In 2005, the rate of the parent's allowance for families with seven or more children was increased to 2.2 times the rate of child allowance (2,640 kroons per month, the earlier amount was 2,520 kroons per month).

A child who is enrolled in a basic school, upper secondary school or a vocational school that operates on the basis of basic education, or who is without basic education and is enrolled in a vocational education institution has the right to receive child allowance, notwithstanding the form of study (daytime study or evening study) since January 2007.

The paying of the start in independent life allowance was extended to a person without parental care who has been under guardianship or in foster care as a child.

The allowance for families with three or more children and families raising triplets has been repealed since 1 July 2007. Instead of the said allowance, a higher monthly child allowance is paid to the third and next children in the family.

The foster care allowance was increased to 3,000 kroons per month (in addition to other state family benefits) from 1 January 2008.

Maintenance allowance is provided for a child whose parent does not comply with the maintenance obligation according to the Maintenance Allowance Act that entered into force on 1 January 2008. The maintenance allowance will be paid during the judicial proceedings regarding the maintenance claim. The maintenance allowance is paid for 90 days.

A parental benefit has been paid for 575 days from the start of the pregnancy and maternity leave to a working parent and until the child reaches 18 months of age to a non-working parent since 1 January 2008. The upper limit of the parental benefit was 30,729 kroons and the rate of parental benefit was 4,350 kroons in 2009.

Paying of the annual school allowance was stopped from 2009 due to the consequences of the global economic crisis. Partial write-off of the state educational loan in case of childbirth was also stopped from 1 July 2009. The state was also forced to decrease the tax incentives of children with families – while in 2008, it was possible to deduct additional exemption from income tax from the income of the period of taxation for each child under the age of 17, the deduction of additional exemption from income tax was implemented starting from the second child in the family from 2009.

The report states that no residence requirement is imposed on foreign nationals before they are entitled to family allowances. However, the Committee asks for confirmation that the award of temporary residence permits is not subject to any length of residence requirement.

There is no requirement for length of residence for paying family allowances (State Family benefits Act § 2, Parental Benefit Act § 2, Maintenance Allowance Act, § 2).

Statistics

A total of 3,577,200,000 kroons was spent on family allowances within the 12 months of 2008. A total of 3,975,500,000 kroons was spent on family allowances within the 12 months of 2009. The increase in expenses on family allowance was 11.1%, that is, by 398,300,000

kroons compared to 2008. The increase in expenses has mainly taken place due to increase in the parental benefit.

Child allowances were the biggest item of expenditure in family allowances until the end of 2006, but starting from 2007, the parental benefit holds the first place in expenses.

Regarding family allowances, please also take a look at the Sixth Report of the Republic of Estonia, For the reference period 2005–2007, Article 12 (1).

Article 17: The right of children and young persons to social, legal and economic protection

Article 17 § 1: Assistance, education and training

Assistance

General regulation, measures for implementation of legal regulation, statistics

The Committee asks whether there are procedures allowing the child to establish maternity.

§ 5 of the Abortion and Sterilisation Act prescribes that the pregnancy of a woman may only be terminated at her own wish.

No one is allowed to force or persuade a woman to terminate pregnancy. The request to terminate pregnancy must be in written form. The pregnancy of a woman with restricted active legal capacity may be terminated at her own request and upon the approval of her guardian.

The pregnancy may only be terminated with the permission of the court if a woman does not approve the termination of pregnancy or is unable to express her will or if the guardian does not approve the termination of pregnancy. If an immediate risk to the health of the woman arises due to a delay in obtaining permission from the court, the pregnancy may be terminated without the permission of the court, but in this case, the permission must be immediately obtained afterwards.

According to § 12 of the same Act, the doctor terminating the pregnancy is obliged to explain the biological and medical nature of the termination of pregnancy and the related risks, including possible complications, to the woman who wishes to terminate pregnancy or the guardian of a woman with restricted active legal capacity wishes to terminate the pregnancy before termination of pregnancy. A document about the said counselling will be composed, which will be signed by the person who received counselling and the doctor who performed the counselling.

According to § 84 of the new Family Law Act, the man by whom a child is conceived is the father of the child. It is deemed that a child is conceived by a man who is married to the

mother of the child at the time of birth of the child, who has acknowledged his paternity or whose paternity has been established by court.

Paternity can only be acknowledged in person and conditional or temporary acknowledgement of paternity is void (§ 87 of the Family Law Act). According to § 88 of the Family Law Act, a minor or an adult with restricted active legal capacity may acknowledge paternity with the consent of their legal representative.

In addition to the application of the father, the consent of the mother of the child is also required for acknowledgement of paternity (§ 89 of the Family Law Act). If the mother of a child is a minor or an adult with restricted active legal capacity, she may only give consent for acknowledgement of paternity with the consent of her legal representative. If a mother has been deprived of the right of custody of her child or has died or the child has become an adult, the consent of the child is also required for acknowledgement of paternity. Consent for acknowledgement of paternity on behalf of a child under 14 years of age will be given by the legal representative of the child. A child who is at least 14 years of age may give consent for acknowledgement of paternity in person with the consent of his or her legal representative. The consent will be given in person and it must not be conditional or temporary.

According to subsection 26 (1) of the Vital Statistics Registration Act, an application of acknowledgement of paternity as well as the prescribed approval for acknowledgement of paternity in notarised form or by visiting the vital statistics office in person will be submitted in order to confirm parentage. A parent living in a foreign state may submit a written application, whereas the authenticity of the signature of the applicant will be notarially authenticated by a consular officer of Estonia. If a minor or an adult with restricted legal capacity acknowledges paternity or gives consent for it, the consent of the legal representative of the person must be appended to the application. If the mother of the child has died, the consent for acknowledgement of paternity will be given by the legal representative of the child.

According to § 94 of the Family Law Act, paternity will be established by court, if no man has been established as the father of a child by marriage, acknowledgement of paternity or establishing of paternity, or paternity has been contested and the court has established that the child does not descend from the man whose paternity was contested. A court will establish paternity from the father on the basis of circumstances that allow to presume that the child descends from this man.

A court will decide on establishment or contestation of paternity on the basis of an action of a man filed against a child or on the basis of an action of a mother or child filed against a man.

If the person against whom an action should have been filed is dead, the court will decide on contestation or establishment of paternity in a proceeding on petition on the basis of the petition of the person entitled to file a claim according to the previous sentence (§ 95 of the Family Law Act).

A separate proceeding has not been prescribed for identification of the mother. According to § 83, the woman who gives birth to a child, is the mother of the child.

The Committee asks whether an adopted child has a right to information about his/her birth parents.

§ 164 of the Family Law Act regulates matters regarding adoption secrecy: a person who is aware of adoption secrecy may not disclose it unless disclosure thereof is required in the public interest. An adopted child who has become an adult or a minor adopted child, with the consent of the adoptive parent, has the right to obtain information from the county government concerning the fact of adoption. In addition, an adopted child who has become an adult or a minor adopted child, with the consent of the adoptive parent, has the right to obtain information from the county government concerning his or her biological parents, grandparents, brothers and sisters if the abovementioned persons have granted consent for disclosure of the corresponding information. If consent for communication of information is not granted, a county government shall provide information concerning the abovementioned persons to the extent and in a manner that does not enable identification of the biological parents, grandparents, brothers or sisters of the adopted child if they have not granted consent for the communication of information.

Education

General regulation, measures for implementation of legal regulation, statistics

The Committee notes that there has been an overall decline in the number of schools in comparison to previous years, and that a number of schools in rural areas has been closed down. It asks the reasons behind the closures and asks whether they have prevented children, especially in rural areas, from attending school. The Committee furthermore wishes to receive updated statistics in the next report on the number of public and private schools, the geographical distribution of schools, and the teacher pupil ratio in schools.

According to the Basic Schools and Upper Secondary Schools Act, the rural municipality or the city is required to ensure the opportunity to obtain basic education for each person subject to the obligation to attend school in the area of his or her residence. This school is obliged to enrol the child unconditionally. Parents have the right to know in which school a place has been reserved for their children. In order to ensure the performance of this provision, the city or rural municipality government will establish the conditions and procedure for determining the municipal school of the person's residence. The first priority is the proximity of the residence of the student to the school, studying of other children from the same family in the school and, if necessary, the wishes of the parents. A maximum of 60 minutes may be spent to reach the school of the residence of the student for at least 80% of the students. The expenses of the travel to school and home will be compensated up to four times per month for children studying in schools for students with special needs who live in boarding school facilities and whose residence is not in the same city or rural municipality as the educational institution. The travel expenses for students who are travelling to the educational institution and back to their permanent residence every day are compensated with a calculation of one round trip per day.

The demographic estimate shows the aging of the population of Estonia and the decrease of the proportion of young persons. The total number of students is decreasing notwithstanding the moderate increase in the number of births – for the first time after the 1993/1994 academic year, the number of upper secondary school students in daytime study fell below 30,000 in the 2009/2010 academic year. The number of primary school students will increase by 2014 thanks to the increase in the number of births, but only by 8% compared to 2008. The total number of students has decreased more than a third in the last 10 years.

Table 11: Estimate of the number of students in daytime study of general education schools. Number of students as it was in the 2009/2010 academic year, estimate since 2010.

Stage of study	2009/2010	2010	2011	2012	2013	2014	2015
Grades 1-3	37,187	38,140	40,130	42,390	44,290	46,140	47,770
1st grade	12,548	13,520*	14,390*	14,830*	15,430*	16,250*	16,480*
Grades 4-6	35,760	35,990	36,440	36,870	37,800	39,780	42,030
Grades 7-9	40,136	37,980	36,430	35,630	35,870	36,330	36,760
Grades 10-12 (upper secondary school)	28,719	26,220	23,820	22,040	20,870	20,030	19,600
TOTAL	141,802	138,330	136,820	136,930	138,830	142,280	146,160

*Estimate of the number of 1st grade students without taking emigration into account. The actual number of 1st grade students will likely stay at around 13,000 students.

Source: Ministry of Education and Research on the basis of the Population Statistics (RV 0212) of Statistics Estonia

575 general education schools were active in the 2009/2010 academic year, including 16 upper secondary schools for adults and 43 schools for students with special needs related to education. By form of ownership, the division of the schools was as follows: 33 private schools, 29 state schools and 513 municipal schools. The number of schools for general students and students with special needs related to education has decreased from 721 to 559 in the years 1999-2009 mainly due to lack of new students, which means that 162 schools have been closed or merged with another educational institution by the decision of the owner of the school. There are 6 less primary schools active in Estonia compared to the 2008/2009 academic year notwithstanding the fact that the number of 1st grade students increased by 321 compared to the previous academic year. The proportion of schools located in rural areas was 63% in the 2009/2010 academic year whereas 74.6% of the students studied in schools located in cities.

Table 12: General education schools with daytime study, 2005-2009.

Year	Primary schools	Basic schools	Upper secondary schools	Schools for children with special needs	Total
2005	91	225	236	46	598
2006	84	223	232	46	585
2007	81	221	226	45	573
2008	78	220	223	45	566
2009	72	222	222	43	559

Source: Statistics Estonia

Table 13: Daytime study students in schools located in cities and rural areas, 2005-2009.

Year*	Students total	Students in city schools	Proportion of students in city schools, %	Students in rural schools	Proportion of students in rural schools, %
2005	173,822	129,116	74.3	44,706	25.7
2006	164,024	121,720	74.2	42,304	25.8
2007	155,071	115,021	74.2	40,050	25.8
2008	147,519	109,995	74.6	37,524	25.4
2009	141,802	105,763	74.6	36,039	25.4

Note: * at the beginning of the academic year.

Schools in cities, cities without municipal status and towns have been considered as city schools while schools in small towns and villages have been considered as rural schools.

Source: Statistics Estonia

Table 14: General education schools by location (city or rural municipality), 2009/2010.

	Number of schools	Proportion
City	208	37%
Rural municipality	351	63%
TOTAL	559	100%

Source: Estonian Education Information System

Table 15: General characteristics in the statistics of teachers by years.

Academic year	Number of teachers	Number of positions for teachers	Number of students	Number of general education schools	Number of students per teacher	Number of students per positions for teachers
2005/2006	15,827	13,670	180,963	603	11.4	13.2
2006/2007	15,183	13,003	170,994	601	11.3	13.2
2007/2008	15,039	12,845	161,961	589	10.8	12.6
2008/2009	14,682	12,452	154,481	582	10.5	12.4
2009/2010	14,701	12,203	149,641	575	10.2	12.3

Source: Estonian Education Information System

The Committee requests an explanation for the reasons for the increase in the failure rate. It asks also that the next report clarify how the Government defines the concept of 'drop-out' in schools. Finally, it wishes to receive updated statistics on the enrolment, attendance and drop-out rates at all levels of schools and up-dated information on any measures with regard to the prevention of drop-outs.

The report for the year 2005 states that in 2000, a total of 12,307 students studied in the 10th grade of upper secondary schools in 2000; 488 students interrupted studies, which is about

4%. This is to say that the number 12,307 mentioned in the conclusions of the Committee is not the number of drop-outs but rather the number of 10th grade students in total.

In the years 1998-2001, the system for examinations was in its initial phases. It appeared that the minimum score of 1 for passing examinations did not work; instead, it had a negative impact on the study motivation of weaker students and thereby on the actual knowledge as a score of one point could be achieved by random guessing.

Introducing the new minimum score of 20 points in 2002 increased the accuracy of measurement of weaker students; it had a motivating effect on the studies of these students and the examination results of weaker students improved. The examination results of the years 2001 and 2002 cannot be directly compared as exercises meant to distinguish weaker students were inserted to an extent of about 20 points. The average examination score thereby increased from around 50 points to about 60 points.

Please see also explanations given for Article 17 § 2.

The Committee notes a decline in the number of young teachers entering the profession of teaching. It wishes to receive information on measures taken to strengthen teacher-training so as to increase the number and standards of teachers and to improve the conditions of service of teachers.

The lack of young teachers can be noticed at all levels of education, but their number has started to stabilise or even increase slightly in the last few years. There were an average of 12.4% of young teachers (i.e. aged 30 and younger) in general education schools in the years 2005-2007. In the 2009/2010 academic year, the proportion of young teachers has decreased to 11.2%, but the total number of young teachers has stabilised. There are 18 (5.1%) young teachers in vocational educational institutions conforming to the qualification requirements and their number has slowly increased during the last two years (4.8% in 2007 and 4.3% in 2008). In the 2008/2009 academic year, the number of young teaching staff in institutions of professional higher education was 19 (7.7%).

The programme for beginner’s allowance for young teachers was initiated in 2008 in order to bring young teachers to professional work. From September 2008 to December 2009, the beginner's allowance was paid to a total of 109 young teachers. The grant programme for teacher training was initiated in 2008 with the purpose of appreciating persons who study to become teachers and to recognise the profession of teachers in Estonian society. 191 grants the extent of 20,000 kroons per year have been given in two years. In addition to that, the

beginner's allowance for young teachers was implemented in 2008 to the fresh graduates of teacher training who are going to work in rural areas. The beginner's allowance is paid during the first three working years for a total amount of 200,000 kroons.

A system of mentor teaching with a total of 20 mentor teaching staff who help their young colleagues who are starting work to improve their skills related to teaching and instructing and to adjust to the activities in institutions of higher education was initiated in institutions of higher education in the framework of the Primus (programme for improving the quality of third level education) programme in 2009.

Teachers who are starting work will also receive support from an experienced and specially trained mentor in the framework of the professional year programme and from the support programmes of universities. The observed results of the professional year indicate that young teachers highly appreciate such support – over 90% of persons who finished the professional year wish to continue as a teacher in the next year. The professional year provides valuable feedback for improving the initial training of teachers and improves the collegial cooperation of teachers in schools. A similar adaption year for teachers of vocational training and a support scheme for young teachers who need support for more than one year are being elaborated.

The financing of implementation programmes aimed at teachers continued in 2009 from the funds of the ESF. The implementation programme of the ESF "Raising of Qualification of Teachers of General Education 2008-2014" aimed at teachers of general education schools was approved this January. The programme is aimed at professional improvement of teachers of the general education system and their high-quality professional activities throughout the career. Putting into practice the strategy of teachers' education in Estonia continued in 2009 with the help of ESF implementation programme Eduko. In vocational education, the funds of the ESF are continuously used to create a flexible in-service system for teachers of vocational education and for raising the competence and qualification of teachers of vocational education by implementing the programme "Substantive Improvement of Vocational Education 2008-2013". The programme "Support Measures for Teachers from ESF Funds" will additionally be implemented from the 2009/2010 academic year. This is a temporary grant that will be implemented until 2011.

The Noored Kooli Foundation initiated a novel leader programme directed at persons who graduate from university in 2006, which connects a competitive job offer and the chance to give an effort to make positive changes to society. 15-20 young persons of up to 30 years of age who went through a thorough selection process and preparation work in the schools of

Tallinn, the Harju County or rural areas for two years. Participants in the programme are offered an innovative teacher training, leader programme with mentors and a support network for two years. The training events take place both in Estonia and abroad, also including practice at the best employers of Estonia and England. As the idea of the programme goes, a successful organiser of school classes is also able to be a good leader in an enterprise or another organisation. The young persons are not obliged to continue teaching in schools after the end of the programme. The organisers however hope that this period of time has given them enough experience, ideas and a network in order to continue with positive changes in the field of life that the graduate of the programme chooses. The participants of the programme receive support from enterprises and organisations from both the private, public and third sector in addition to the initiators of the Noored Kooli – the Good Deed Foundation and Hansapank.

Estonia has no need to increase the number of teachers in the conditions of the current demographic situation where the number of students is steadily decreasing, especially in rural areas. It is important that the quality of education also remain high in schools further away from local centres. A majority of the teachers currently working in schools have received preparation for teaching just one subject and as the school network grows smaller, many subject teachers will not have enough work load in small schools. On the other hand, these are experienced and professional teachers. Starting from 2005, gaining an additional area of specialisation and retraining for teachers already working in schools is funded through state-commissioned education.

The wage level of teachers in Estonia is low compared to the OECD countries and partner countries, but during the period of 1996-2008, the increase in wages of teachers was definitely the highest in Estonia (Education at a Glance 2010, OECD Indicators. OECD 2010. Chart D.3.2 and D.3.3).

The Committee notes that a project on the participation in preschool education groups of Roma children and training of their parents is under consideration in order to avoid problems associated with dropping out and failure to attend school amongst Roma children. The Committee wishes to receive more information on this in the next report. It recalls that the existence of separate schooling facilities for Roma children is not in conformity with Article 17 and that these children should be integrated in normal schools. It asks what the situation in Estonia is in this respect.

According to the data of the Estonian Education Information System, there were 15 children enrolled in the general education schools of Estonia in the 2009/2010 academic year who

had specified their native language to be Romani (the native language of a student is specified by the student himself or herself, it is the right of him or her and the parents); 7 of them were enrolled in the Valga Jaanikese school, which is a school for children with special needs related to education and 8 of them studied in so-called ordinary schools.

The enrolment of a child in a school for children with special needs related to education can only take place with a decision of the counselling committee. Members of the counselling committee are specialists who are competent in the field and therefore, without concrete evidence, the correctness of their decisions cannot be doubted. Attending the counselling committee can only take place on the approval of the parents. The suggestions of the counselling committee also apply only on the approval of parents.

The Ministry of Education and Research is supporting a study called “Roma in the Estonian Education System – Issues and Solutions”, the purpose of which is to find out the kind of schools that Roma children study in, how are their studies going, how much the schools are supporting Roma children, etc. By taking the results of the study into account, it is possible to elaborate the necessary means to improve the situation.

There are special schooling facilities for children with learning difficulties and behaviour problems. For children with health problems special schools can be established, or home schooling at the residence or in a hospital may be followed. The Committee wishes to receive information on schooling for certain other vulnerable groups: children in care, pregnant teenagers, teenage mothers, refugee children and children seeking asylum.

The teaching of all the so-called vulnerable groups is taking place according to the general legislation related to education and they can receive support services respective to individual needs (individual study programme, a free place in the boarding school facilities, etc.).

Refugee children and children seeking asylum fit the term of new immigrants and they have the opportunity to receive education in the school of their residence. The studying takes place based on an individual study programme and the state additionally allows for 4 extra lessons to study Estonian. The teachers of the school of residence (Illuka Primary School) located near the shelter for the refugees (Ida-Viru County, Illuka rural municipality) have received the respective training.

Protection of children from ill treatment and abuse

General regulation, measures for implementation of legal regulation, statistics

Section 40 of the Act, under the heading Education, stipulates that instruction may not involve physical violence or mental abuse. The Committee asks that the next report confirm that this entails that corporal punishment is indeed prohibited in all schools. It asks that the next report provide information on the prohibition of corporal punishment in institutions.

The safety of the study environment is handled on a significantly higher level in the new Basic Schools and Upper Secondary Schools Act compared to the previous legislation.

§ 44 of the Basic Schools and Upper Secondary Schools Act provides that the school has to ensure the mental and physical safety and health protection of the student while he or she is at school. This also involves protection against corporal punishment. The same section provides that the school is obliged to elaborate and provide in the internal rules of the school how situations that endanger the mental and physical safety of students and members of staff of the school can be prevented, what will be the reactions to these situations, what is the procedure for notifying of these cases and how they will be solved.

Monitoring of the students has to be ensured throughout the school day for the interests of safety, the use of rooms and the territory will be elaborated such as to support creating a safe study environment and it is only permitted to use monitoring equipment that is in accordance with legislation on the territory of the school and for examining the persons entering and exiting the building or territory of the school.

§ 45 of the Act provides the obligation of the school to elaborate an emergency plan in cooperation with professionals.

§ 58 of the Act gives the right to implement reasoned, relevant and proportional supportive action measures with the purpose of influencing students to behave according to the internal rules of the school, respect others and prevent situations that could endanger safety.

12 action measures and the conditions for implementing thereof are listed in the section. Only the following action measures are allowed:

1) discussing the behaviour of the student with his or her parents;
2) discussing the behaviour of the student with him or her with the head of school or teaching and education deputy;

3) discussing the behaviour of the student with him or her in the teachers' council or the board of trustees;
4) appointing a support person for the student;
5) a written admonishment;
6) removing items that the student is using in a manner that is not in accordance with the internal rules of the school and storing them in the school;
7) removal from the lesson along with the obligation to stay at a designated location and achieve the required study results by the end of the lesson;
8) conciliation of the parties to a conflict situation with the purpose of achieving an agreement for further action;
9) carrying out an activity useful for the school, which may be applied only on the approval of the student or on the approval of the parent in case of a student with restricted active legal capacity;
10) obligation to stay in the school after the lessons are over along with a designated activity for up to 1.5 hours per school day;
11) temporary ban on taking part of activities in school not related to the study programme, for example of events and trips; and
12) temporary ban on taking part in studies along with the obligation to achieve the required study results by the end of the period.

The Committee recalls that Article 17 requires a prohibition in legislation against any form of violence against children, whether at school, in other institutions, in their home or elsewhere. It considers that this prohibition must be combined with adequate sanctions in penal or civil law. Therefore, it considers that since there is no prohibition in legislation of corporal punishment in the home, the situation in Estonia cannot be considered to be in conformity with Article 17 of the Charter.

The Child Protection Act and the penalties prescribed in the Penal Code for physical abuse are in force in homes, schools and institutions. A provision about the obligation of mutual support and respect has been added to the new Family Law Act in addition to § 121 of the Penal Code that prescribes a penalty for physical abuse. § 113 provides that the parent and the child are required to support and respect each other and take each other's interests and rights into account.

A social campaign against physical punishment called "Hands are for Holding, not Punishing" initiated by the Council of Europe and in cooperation with several partners was carried out in

2008 to raise the awareness of the public and to shape attitudes about the harmfulness of abuse of children.

The Committee takes note of the various initiatives taken with regard to the prevention of child abuse. The report states that there are two centres specialised in counselling and rehabilitation of abused children and that a network of specialists is being created for the investigation of child abuse cases. The Committee asks that the next report provide more information on this, and on whether there are any effective mechanisms investigating complaints regarding child abuse.

Many training events for specialists were held in the years 2004-2008 to prevent and intervene in the abuse of children. Training events related to family violence were held for constables and junior constables in the years 2004-2008 and methodical guidelines were composed for police officers on how to act and what to keep in mind when the suspicion of child abuse arises at the scene of an event. Trafficking in human beings and prostitution were constant topics in different study programmes for in-service training of the police (the film “Lilja 4 Ever” was also used as material).

- In 2005, training events were held for teachers, doctors and welfare service workers to notice and assist abused children. A psychologist with special preparation was trained in every county to help sexually abused children, children without escort and children who have been victims of trafficking.
- In 2006, training events for doctors were held (200 participants) for the early noticing and intervention in sexual abuse of children. A conference called “Children and Sexual Abuse” was organised and an extra paper covering the same topic was published in the *Eesti Päevaleht*.
- The free-of-charge child helpline 116111 is working from January 2009. The helpline is taking calls round the clock. Persons may inform of a child in need or ask for information and advice about any topic related to children. The helpline forwards the information about the possible abused child to the police and/or the local government according to the situation.
- Cooperation work and a survey were performed regarding informing of cases of abused children in 2009, which can be accessed on the webpage of the Ministry of Social Affairs at http://www.sm.ee/tegevus/lapsed-ja-pere/lastekaitse-korraldus.html. The roles and activities of different parties in informing of abused children were analysed.

- The Government of the Republic approved the development plan for reducing violence for the years 2010-2014 in 2010 (accessible at http://www.just.ee/49973). The development plan *inter alia* includes chapters about prevention and reduction of acts of violence committed against children, about prevention and reduction of violence and offences committed by minors and prevention and reduction of family violence.
- Work has commenced on writing a new guidebook for child protection work; one of the guidelines of the book is for helping abused children.

The Union for Child Welfare carried out several projects against school bullying during the strategy period, improving the intervention strategies for child bullying by, for example, implementing the social theatre and the Method of Common Concern.

More and more attention is turned to parents when reducing violence against children and, since this is a priority issue, several projects promoting parental education have been financed.

The Committee asks information on any achievements of the Child Assault Prevention program (CAP).

CAP was brought to Estonia in the autumn of 2000 on the initiative of the Tartu Child Support Centre. CAP is acting under the slogan “Every child has the right to be protected, strong and free” and it is considered to be one of the most innovative and efficient prevention programmes in the US and elsewhere in the World. This programme for child protection does not only deal with alleviation of consequences but first and foremost with prevention work – helping children protect themselves against school, street and home violence. This programme observes the whole life surrounding the child and the persons closest to him or her as one issue (for example at home) may affect the emergence of other issues (for example at school). The programme demonstrates the dangers and the possibilities to get help to children. Workshops are carried out in the framework of the programme: for all basic school students and children of nursery schools aged 6-7, for all parents and to the whole staff of the school or nursery school. The activities of CAP have been supported every year through projects of the Gambling Tax Council and the committee of minors.

Children in public care

General regulation, measures for implementation of legal regulation, statistics

The Committee asks whether these measures have lead to a decrease in the placement of children in institutions and a corresponding increase in the number of children placed in foster care. It also asks for information on any other measures taken to prevent children from being placed in institutions.

1,261 children lived in social welfare institutions as of 15 May 2010. Although the placement of children in social welfare institutions is showing a decrease trend, placement of children in foster care has unfortunately also decreased. 523 children were in foster care in 2009. The financial support paid for children in foster care was increased by 100% in 2007. Unfortunately, this did not substantially increase the number of children in foster care.

There are regularly organised conferences related to the topic in order to raise the awareness of persons about becoming foster families and an extra paper was published in the largest broadsheets of Estonia in 2009 and 2010, providing information about being a foster family and calling persons to think about becoming a foster family.

At the same time, child protection work has been constantly improved in order to make local governments and other parties concerned perform preventive work with the family and offer supportive services before the separation of the child from the family comes into question.

The Committee notes that the Statutes of Children's Homes establish the recommendations concerning the maximum number of children living in homes (12-50 children) or in family-type living arrangements (8-10 children). The Committee asks that the next report indicate whether the maximums are indeed respected.

According to legislation currently in force, the maximum number of children in one family of a substitute home may not exceed 8 children. The maximum number of children in family-type living arrangements is 6.

The Committee asks that the next report explain the role, legal or otherwise, of a guardian or other care taker in an institution with regard to the care of children.

If a child is left without parental care, a guardian will be appointed by the court. The local government will perform the duties of the guardian until the guardian is appointed. Both natural and legal persons may be guardians.

If a guardian is appointed to a child by the court, the guardian will receive both custody over person and custody over property. The institution where the child is staying is not the guardian of the child and does not have the right to represent the child; instead, it must always ask for the permission of the guardian for making important decisions.

The Committee notes that a children's home and the local government that placed a child are required to establish and maintain contact with the parents, relatives or persons important to the child, unless this is not in the best interest of the child. It asks under which conditions an institution may interfere with a child's property, mail and personal integrity and right to meet with persons close to the child.

Parents have equal rights and obligations with respect to their children unless otherwise provided by law. Parents have the obligation and right to care for their minor child. The parent's right of custody includes the right to care for the person of the child (custody over person) and for the property of the child (custody over property) and decide on matters related to the child (Family Act, § 16).

Every child shall at all times be treated as an individual with consideration for his or her character, age and sex (Child Protection Act, § 31 (1)). Every child has the right to privacy, acquaintances and friends. The right of the child to privacy shall not be subjected to arbitrary or unlawful interference which harms the child's honour, dignity, convictions or reputation. Repeated blatant interference in the privacy of the child may provide grounds for administrative or disciplinary measures or for the deprivation of parental rights (Child Protection Act, § 13).

A child who is separated from one or both parents has the right to maintain personal relations and contact with both parents and close relatives, except if such relations harm the child (Child Protection Act, § 28). The child has the right to obtain information concerning an absent parent, unless this is detrimental to the well-being and development of the child or violates the confidentiality of adoption (Child Protection Act, § 29). A child who is being assisted has the right to contact with his or her parents and close relatives, except if such contact endangers the health and development of the child or endangers the security of caregivers or the staff or other children of the social welfare institution. The social services departments and care institutions shall take all measures to promote the initiation and

continuation of contacts between the child and his or her parents and close relatives. The social services departments may refuse to disclose the whereabouts of a child to his or her parents or close relatives on the grounds provided for in law (Child Protection Act, § 64).

Upon exercising the right of custody over property of a child, parents shall exercise such care as they would usually exercise in their own affairs (Family Act, § 133 (1)). The right of custody over property does not apply in the case of property acquired by a child:

1) by succession or as a gift if the bequeather or donor has specified that the property shall not be administered by one or neither of the parents;
2) on the basis of a right included in the property specified in clause 1) of this subsection or as compensation or in return of the transfer of, destruction of, damage to or seizure of objects included in such property.

Parents shall administer the property acquired by their child by succession or as a gift in adherence to the instructions of the person from whom the property was acquired. Parents may deviate from the instructions if adherence thereto may damage the interests of the child (Family Act, § 128).

Parents as representatives of a child shall not give away a child’s property as a gift. As an exception, it is permitted to make ordinary gifts in order to perform a moral obligation or adhere to etiquette (Family Act, § 129).

Parents shall invest the money belonging to their child and administered by the parents pursuant to the principles of prudent management of property and in adherence to the provisions of § 186 of this Act if it is not necessary to use the money for covering the maintenance costs of the child (Family Act § 130).

Parents shall have the consent of a court in order to conclude transactions on behalf of a child in the cases where a guardian requires it. Consent of a court is not required for renunciation of succession if the child's right to the estate has arisen as a result of renunciation of succession by the parent who has the right of representation with respect to the child. Parents shall not, without the consent of a court, commence new business activities on behalf of a child or transfer objects for the transfer of which consent of a court is required to a child for the performance of a contract entered into by the child or for free disposal. The provisions concerning the guardian’s right of representation shall be applied to consent of a court (Family Act § 131).

From the benefit received from a child's property first the obligations incumbent on the property which have fallen due shall be performed and other expenses of regular management of the property shall be covered. The income remaining from the abovementioned expenses may be used for the maintenance of the child. If the benefit received from a child's property is not needed for covering the expenses of regular maintenance of the property or for maintenance of the child, the parents may use it for the maintenance of themselves and unmarried minor brothers and sisters of the child if there are no appropriate resources for covering the maintenance costs of the abovementioned persons (Family Act, § 132).

The legal guardian appointed by the court, has the same rights and obligations as parents. Until appointment of the guardian, the duties of a guardian shall be performed by the rural municipality or city government of the child's place of residence entered in the population register (Family Act, § 176). Thus, if the child living the institution doesn't have guardian appointed by the court, the tasks of the child's guardian are fulfilled by the municipality of the child's place of residence.

Providing aid takes place on the basis of case management and for every child placed in an institution, the local government must compose a case plan. The case plan will be reviewed and updated at least once per year. The representative of the institution, local government or the guardian will take part in the discussion as well as the child, if his or her developmental level so permits. The biological parents as well as teachers are also involved in the discussion if necessary. The rights of visiting, etc., are set out in the case plan. Should an agreement not be achieved, the guardian or the local government has the right of decision.

The Committee asks for information on the specific procedures for children to complain about the care and treatment in institutions.

If a child has complaints about the care and treatment in a social welfare institution, he or she has the primary right to address the management of the institution and the guardian. In addition, the child has the right to directly address the Chancellor of Justice. The child must be informed of these possibilities.

The Committee requests information on regulations concerning staff qualifications and training and wage levels of staff in institutions.

The qualification requirements of the staff are established by §§ 15[8],15[9] and 15[10] of the Social Welfare Act. The study programmes for education employees are established by Regulation no 73 from 26 November 2008 of the Minister of Social Affairs.

The wage levels are not regulated with legislation as the institutional care is provided by state, municipal and private service providers. However, the state institutions, the trade union and the Ministry of Social Affairs entered into a wage agreement in 2008, which is currently taken into account by most of institutions.

According to the Social Welfare Act, the quality of the services offered in institutions is inspected by county governments. The Health Protection Inspectorate supervises the compliance with health protection requirements. In particular, the Committee asks how frequent and effective the reviews are and whether the children themselves may be asked about the conditions.

The frequency of inspections of the institutions is determined in the annual plans of county governments and the Health Protection Inspectorate as they have the right to exercise supervision. The Ministry will ask the county government to carry out special supervision to identify possible violations if the Ministry receives a complaint about the low quality of the service, possible abuse, etc. The methodology for exercising supervision is different for each county government, but according to the information the Ministry has received, discussions with children are also held from time to time.

The Committee notes from another source that conditions in institutions would be poor and the system of periodic review of placement would not adequately take into account the views and best interests of the child by providing appropriate counselling and support or finding forms of alternative care other than institutionalisation. The Committee asks for the Government's views on these findings and also asks what measures have been taken to improve the standards and conditions in institutions.

The regulation for substitute home service was established in the Social Welfare Act in 2007, which prescribed requirements for the staff, number of children and the service. Additionally is launched a programme in the course of which all state substitute homes will be reorganised. Child-friendly family-type living arrangements will be constructed instead of the current big buildings. The reorganisation is financed from the European Regional Development Fund and the Estonian-Swiss cooperation programme.

The principles of case management and case plans have been established by law from 2008, obligating the local government to use other measures before placing the child in an institution and marking them down in the case plan.

Young Offenders

General regulation, measures for implementation of legal regulation, statistics

The Penal Code provides that minors from the age of 14 can be held criminally liable. According to the Child Protection Act, measures such as counselling, probation, reconciliation, curatorship and educational programmes, shall be applied to juveniles, whereas sentencing, particularly imprisonment, shall be a measure of last resort. The Committee notes that imprisonment exceeding 10 years or life imprisonment shall not be imposed on a person who at the time of commission of the offence is or was less than 18 years of age.

The Committee wishes to receive updated figures on how many minors over 14 are sentenced to a term of imprisonment or other measures and requests details as to the age of the offenders and the types of offences committed.

Misdemeanours

The principal sentence for misdemeanours in Estonia is a fine or detention according to the Penal Code (not imprisonment, which is the principal sentence for criminal offences); minors may not be convicted to imprisonment of over ten years or a life imprisonment for criminal offences.

The Code of Misdemeanour Procedure does not make exceptions for imposing sentences related to a person being a minor, i.e. both a fine and detention may be sentenced, however the body conducting the proceedings has the right to terminate the misdemeanour proceedings after the necessary elements of an offence and the guilt of the person subject to proceedings have been determined and send the materials to a juvenile committee to impose sanctions that are not sentences.

In practice it has been established that detention as a penalty is generally not sought for in case of persons up to 18 years of age; the detention has to be thoroughly reasoned, above all due to not serving the previously imposed sentences.

32,717 misdemeanours committed by minors were registered in 2008. The most common misdemeanours were related to violations of the Alcohol Act, the Tobacco Act and the Traffic Act.

26,903 misdemeanours committed by minors were registered by the police in 2009. According to the database of the police, the main violations by minors were: violations of the Alcohol Act (9,876), violations of the Tobacco Act (7,878), violations of the Traffic Act (4,810) and violations of the Penal Code (3,765 of which 2,241 were offences against property involving objects or proprietary rights of small value, 1,252 were breaches of public order and 123 cases were related to disregard of lawful order given by representatives of state authority; other necessary elements of an offence were registered in a substantially smaller amount).

Out of 26,903 misdemeanour proceedings, a fine was imposed in 18,291 proceedings, 2,147 proceedings were terminated since the offender was younger than 14 years of age, 605 proceedings were terminated without imposing a penalty to the minor and the rest of the proceedings were terminated on other bases (compensation for damage, consideration of expediency, but also due to elements of a criminal offence in the act) (source: ALIS).

Criminal actions

According to the Penal Code, a person is capable of guilt if he or she is at least 14 years of age. Proceedings are not initiated if a person younger than 14 years of age has committed an act that comprises the necessary elements for a completed offence, or, if proceedings have been initiated, the proceedings will be terminated and the materials of the case will be sent for discussion to a juvenile committee. The public prosecutor will have the possibility to terminate the proceedings and send the case to a juvenile committee if a criminal offence is committed by a minor between 14 and 17 years of age. According to the practice of 2008, public prosecutors sent the materials of a criminal matter to be discussed in a juvenile committee in almost every third case; 45% of minors were summoned to court and the cases generally ended in an agreement process (Salla, 2010).

Tabel 16: Criminal offences committed by minors (general number and a choice of the most common criminal offences).

	2008	2009	Change in numbers	Change in %
Number of criminal offences committed by minors	3,105	2,042	-1,043	-34.2
Theft	943	640	-303	-32.1
Physical abuse	562	479	-83	-14.8
Aggravated breach of public order	289	119	-170	-58.8
Unauthorised use of a thing	168	86	-82	-48.8
Fraud	110	136	26	23.6
Robbery	87	59	-28	-32.2
Offences relating to narcotics	154	34	-120	-77.9
Embezzlement	48	33	-15	-31.3
Driving while intoxicated	55	17	-38	-69.1
Rape	14	2	-12	-85.7

Source: Police and Border Guard Board

Imposing imprisonment on minors is not precluded in Estonia, but the use of this sanction is generally an exception. Over the last years, the number of minors in prison has significantly decreased. While there were 41 minors in prison in 2006, the number was 20 by the end of 2009.

The Viljandi Juvenile Prison was shut down in May 2008 and a juvenile department in a separate residence and as a separate structural unit with 45 positions was opened as a part of the Viru Prison, ensuring the detention conditions of a modern cellular jail for up to 250 male minor persons held in custody and convicted offenders and for convicted offenders of up to 21 years of age. Girls are serving imprisonment sentences in the Harku Prison for Women.

Other breaches

Juvenile committees are active in Estonia on the basis of the Juvenile Sanctions Act, which entered into force on 1 September 1998. In 2009, there were 68 juvenile committees in

Estonia. 15 of them were county juvenile committees, 45 were juvenile committees of local governments and 8 were formed by the Tallinn city district governments. The following persons may submit a petition about a violation of law by minors to the committees: the legal representative of the minor, police officers, representative of the school on the basis of the authorisation document of the head of school, child protection officials, social workers, judges, public prosecutors and officials of an institution dealing with environmental supervision.

The juvenile committees have the jurisdiction to impose sanctions for the following minors:

1) minors who, at less than 14 years of age, commit criminal offences or misdemeanours;
2) a minor who, between 14 and 18 years of age, commits a misdemeanour, but a body conducting extrajudicial proceedings finds that the person can be influenced without the imposition of a sentence or if a court finds that the person can be influenced without the imposition of a sentence or the application of a sanction prescribed in § 87 of the Penal Code and misdemeanour proceedings with respect to him or her have been terminated;
3) a minor who, between 14 and 18 years of age, commits a criminal offence, but a public prosecutor or court finds that the person can be influenced without the imposition of a sentence or the application of a sanction prescribed in § 87 of the Penal Code and misdemeanour proceedings with respect to him or her have been terminated;
4) minors who do not fulfil the obligation to attend school.

4,012 juvenile offenders were sent to juvenile committees in 2008; 70.44% of them were boys and 29.56% of them were girls. The native language of 73.9% of such persons was Estonian and the native language of 26.1% of persons was Russian or another language. 2,108 minors sent to the committees were younger than 14 years of age; their proportion was 52.5% of all the minors sent to the committees. 1,904 or 47.5% of minors were between 14 and 18 years of age at the time of submission of the petition. Concerning age groups, the biggest proportion of minors sent to committees were minors of 13 years of age (19.88%) and 14 years of age (19.18%). The main cause for sending minors from the age group between 7 and 14 years of age to the committees was a misdemeanour committed by the minor. The next cause (by proportion) among minors between 7 and 13 years of age was a criminal offence committed by the minor. The main cause for sending minors from the age group between 14 and 18 years of age to the committee was failure to fulfil the obligation to attend school. The next cause (by proportion) is a criminal offence committed by minors

between 14 and 18 years of age. A total of 3,486 minors were sent to juvenile committees in 2009; 2,544 of them were boys and 1,031 were girls. The proportion of boys and girls remained the same as the year before. The most frequent cause for sending minors to the committee is still a misdemeanour committed by a minor below 14 years of age, which is followed by failure to fulfil the obligation to attend school.

5,202 sanctions were imposed by the juvenile committees in 2008. Giving a warning was the most common sanction; it was used 2,077 times. The next most popular sanctions imposed were community service (1,116 times) and sending minors to a consultation with specialists (1,019). In 517 cases, the minor was sent to participate in social programmes, programmes for young persons or rehabilitation programs; in 286 cases, a sanction related to organisation of study was imposed; in 81 cases, the committee decided to obligate the minor to live with their parents as a sanction; mediation was applied in 22 cases; minors were put on probation in 12 times and 73 minors were sent to schools for students with special treatment due to behavioural problems. The most frequent sanctions imposed on boys (as opposed to girls) are mediation (89%), participation in medical treatment (84%), community service (75% of cases) and sending to schools for students with special treatment due to behavioural problems (72% of all minors sent). The most common sanctions imposed on girls are the obligation to live with their parents and, taking into account the average of all the sanctions imposed on minors, sanctions related to organisation of study were most frequently imposed on girls – being sent to classes for students with special needs (45%) and long day groups (35%). Upon sending minors to participate in programmes, the preference is to send boys to participate in programmes for young persons (84%) and girls to social programmes (35% of cases). The tendencies remained the same in 2009 in the sense that the most frequent sanction was a warning (40% of cases), followed by sending minors to a consultation with specialists (21.8%) and community service (19.3%) Sending minors to schools for students with special needs was implemented in 1.7% of all the cases discussed in 2009.

While the number of violations of law by minors decreased in 2009 compared to the previous years, reaching the level of 2006, there have been significantly more cases compared to the previous years in some counties. For example, 26% more violations of law were committed than in 2008 in Ida-Viru County. The number of violations of law discussed in the juvenile committees of Lääne-Viru County has also significantly increased compared to the previous years (by 12.4% compared to 2008). The number of violations of law has also increased in Tartu County (by 5% compared to 2008).

The Committee asks whether minors can be detained in isolation and under what conditions.

Disciplinary penalties may be applied to a prisoner for wrongful violation of the Imprisonment Act, Prison Rules of Internal Procedure or of other legislation. The disciplinary penalties are:

1) reprimand;
2) prohibition of one short or long-term visit;
3) removal from work for up to one month; and
4) commission to solitary confinement for up to 45 twenty-four hour periods. Young prisoners may be committed to solitary confinement for up to 20 twenty-four hour periods.

In the choice of a disciplinary sanction, the objective of the application of imprisonment will be considered. Only one disciplinary sanction may be imposed for the commission of one and the same disciplinary offence. It is prohibited to impose collective disciplinary sanctions. (§ 63 of the Imprisonment Act)

According to § 7 of the Prison Rules of Internal Procedure, the following will be fitted in solitary confinement:

1) hard plank-beds that can be raised up and fixed to the wall or plank-beds that are on the ground;
2) table and seats fixed to the floor or the wall according to the number of places in the cell;
3) a loudspeaker if possible;
4) a coat rack;
5) washing facilities; and
6) WC.

The following will be entered into the register of prisoners related to the need to isolate the prisoner:

1) the given name and surname of the prisoner;
2) reason for isolation;
3) date of registration; and
4) date when the registration becomes invalid. (§ 22 of the Statutes for Founding and Maintaining of National Register of Prisoners, Detained Persons and Persons Held in Custody).

In special schools a student may be placed in an isolation room to calm down, but not for longer than 24 hours. A student may be placed in an isolation room if there is an immediate danger of bodily harm to themselves or violence toward other persons and verbal appeasing has not been sufficient.

The Committee notes that young offenders with behaviour problems, as young as 10 years, can be placed in special schools without being convicted. It notes from another source that minors can be subject to measures without criminal conviction or the application of criminal liability by a juvenile committee, such as referral to a young offenders institution. The Committee requests more details on the circumstances under which the minors can be placed in such institutions. It also requests the number of minors placed, the age of the minors and the criminal acts committed.

§ 6 of the Juvenile Sanctions Act prescribes that a school for students with special needs, i.e. a school for students with special treatment due to behavioural problems, is a school formed on the basis of the Basic Schools and Upper Secondary Schools Act, whereas the sanction of sending students there as a sanction restricting the liberty of a person may be imposed by juvenile committees only with the permission of a court. Sending minors to the school does not assume conviction according to criminal procedure as it can also be imposed on minors who have not reached the age for criminal liability.

Sending minors to the school may be based on circumstances where a minor of 12 years of age or older has committed a violation of law and has been sent to a juvenile committee yet the imposed sanctions have given no results and if sending a minor to a school for students with special treatment due to behavioural problems takes place in the interests of the educational supervision of the minor. The permission for sending a minor to a school for students with special treatment due to behavioural problems may be applied for if the minor is at least 10 years of age and has committed a criminal offence. According to the Juvenile Sanctions Act, a person whose behaviour is being discussed in a juvenile committee due to bad performance in school may not be sent to a school for students with special treatment due to behavioural problems (clause 3 (2) 5) and subsection 6 (2) of the Juvenile Sanctions Act).

In addition to juvenile committees, minors may be sent to schools for students with special needs directly by courts if a judge finds that it is possible to influence the minor without using imprisonment according to § 87 of the Penal Code and sends the minor to a school for students with special treatment due to behavioural problems for up to two years as a sanction.

Thus, persons of 10 years of age can be sent to a school for persons with special needs only in special cases and the sending to a school for persons with special needs always takes place with the permission of a court: on the basis of a court ruling at the application of a juvenile committee (subsection 1 (2) of the Juvenile Sanctions Act) or on the basis of a court judgment as a result of criminal proceedings, if sending to a school for special needs is applied as a sanction instead of a sentence (§ 87 of the Penal Code).

A minor is sent to a school for students with special treatment due to behavioural problems for up to two years, taking into account the end of the academic year. The following special conditions prescribed in the Juvenile Sanctions Act are applied to the minor in the school:

1) students may not possess items and substances listed in the respective regulation of the Government of the Republic;
2) the director of a school or a person authorised by the director has the right to confiscate the forbidden items in the presence of the student, preparing a report concerning the confiscation of items in the form provided for in the Act;
3) the director of the school or a person authorised by the director has the right to open postal and other consignments sent to a student in the presence of the student, but he or she does not have the right to examine the contents of a student's correspondence and messages forwarded by telephone or other public communication channels;
4) for the exercise of disciplinary supervision, students are prohibited from leaving the territory of a school for students with special treatment due to behavioural problems, except in cases provided for in the statutes of the school; and
5) a student may be placed in an isolation room to calm down, but not for longer than 24 hours. A student may be placed in an isolation room if there is an immediate danger of bodily harm to themselves or violence toward other persons and verbal appeasing has not been sufficient.

There are two schools for students with special treatment due to behavioural problems: Tapa School for Students with Special Needs (for boys, languages of instruction are Estonian and Russian) and Kaagvere School for Students with Special Needs (for girls, languages of instruction are Russian and Estonian).

73 minors were sent to a school for students with special treatment due to behavioural problems in 2008 on the basis of applications of the committees and that number remained the same in 2009. The youngest person sent to a school for students with special treatment due to behavioural problems was of 11 years of age. The reason for that was a criminal

offence they committed, followed by the failure to fulfil the obligation to attend school. The biggest age group of minors sent to a school for students with special treatment due to behavioural problems was comprised of minors of 14 and 15 years of age. 15.4% of the minors sent to a school for students with special treatment due to behavioural problems had committed a criminal offence. 50% of the persons who had committed a criminal offence were below 14 years of age and 50% were between 14 and 16 years of age. A committed misdemeanour was the main reason in case of minors over 14 years of age.

The Committee notes from another source that the period of pre-trial detention cannot exceed 6 months. The Committee requests information as to how many minors are subject to pre-trial detention, the duration thereof and the type of offences committed.

14 minors were held in custody as of the end of 2009. An average of 3.9 months was served in custody in pre-trial proceedings in 2008 (total for both adults and minors).

Article 17 § 2: Free primary and secondary education – regular attendance at school

General regulation, measures for implementation of legal regulation, statistics

The Committee asks whether there are any hidden costs in compulsory schools.

The manager of the school will acquire the teaching materials that are necessary to follow the study programme. Textbooks, workbooks, work exercise-books and work papers are all free of charge for all students and the expenses for them are covered from the state budget, but parents generally pay for writing and drawing instruments. Parents also generally pay for certain sports equipment. This is not a case of hidden costs as this is not related to a tuition fee and the role of the state and the manager of the school (local government) with respect to financing has been clearly determined in legislation. Sharing of expenses may be asked from parents in certain conditions for activities in the school not related to the study programme (for example recreational activities that are not a prerequisite for following the study programme).

Subsection 7 (8) of the Basic Schools and Upper Secondary Schools prescribes that cost sharing may not be asked from students or parents for participation in basic or upper secondary school education in a municipal or state school on the basis of the study programme of the school. For activities organised in a school that are not a part of the study programme of the school, covering of expenses may take place as cost sharing in activities not related to the study programme according to the conditions and according to the procedure provided for in the statutes of the school.

The Committee asks that the next report explain what the Government considers to be regarded as 'non-attendance' in schools.

The term of the obligation to attend school has been specified in the new Basic Schools and Upper Secondary Schools Act. A person who is not registered in the list of students of any school is considered to be a person who is not fulfilling the obligation to attend school. In terms of a quarter of academic year, a student who has been absent for more than 20% of the lessons throughout the quarter of academic year without a reason is considered to be a person who is not fulfilling the obligation to attend school.

A person who quit school without obtaining basic education is a drop-out who was obtaining basic education as a person below the school-leaving age notwithstanding the form of study, but was excluded from the list of students during the academic year (1st September–31st August) before becoming an adult and who is not continuing to obtain basic education as of the 10th November of the following academic year.

A person who dropped out of the general education system is a person who was excluded from the list of students during the academic year (1st September–31st August) and who is not continuing studies at the basic or upper secondary level as of the 10th November of the following academic year.

Table 17: Rate of persons who quit school without obtaining basic education, 2005/2006-2008/2009.

	Stage of study	2005/2006			2006/2007			2007/2008			2008/2009		
		Number of quitters	Rate of quitting	Average age of quitter	Number of quitters	Rate of quitting	Average age of quitter	Number of quitters	Rate of quitting	Average age of quitter	Number of quitters	Rate of quitting	Average age of quitter
Men	1st stage of study	18	0.1%	8.5	20	0.1%	9.1	11	0.1%	9.5	11	0.1%	8.8
	2nd stage of study	54	0.2%	15.0	52	0.3%	15.1	27	0.1%	15.3	12	0.1%	14.5
	3rd stage of study	598	2.0%	17.2	519	1.9%	17.2	394	1.6%	17.3	229	1.0%	17.0
Women	1st stage of study	15	0.1%	9.8	24	0.1%	8.9	15	0.1%	8.8	15	0.1%	8.9
	2nd stage of study	23	0.1%	12.9	30	0.2%	12.4	11	0.1%	13.8	13	0.1%	14.1
	3rd stage of study	238	0.9%	16.9	204	0.8%	17.0	153	0.7%	17.1	109	0.5%	17.1
Total	1st stage of study	33	0.1%	9.1	44	0.1%	9.0	26	0.1%	9.1	26	0.1%	8.8
	2nd stage of study	77	0.2%	14.3	82	0.2%	14.1	38	0.1%	14.8	25	0.1%	14.3
	3rd stage of study	836	1.5%	17.1	723	1.4%	17.1	547	1.2%	17.2	338	0.8%	17.1
TOTAL		946	0.7%	16.6	849	0.7%	16.4	611	0.5%	16.7	389	0.3%	16.4

Source: Estonian Education Information System

The rate of persons who quit without basic education has decreased over the last few years. While 946 students dropped out of basic school in the 2005/2006 academic year, the number was 398 in the 2008/2009 academic year, which is about 0.3% of the number of students. The highest drop-out rate is in the 3rd stage of study, up to 0.8%. Many of these students have reached 17 years of age by the end of the academic year, meaning they are no longer obliged to attend school. More and more attention has been paid to children with special needs in schools, implementing various supportive measures such as individual study programmes, boarding school facilities and various study help groups or classes. The awareness and skills of teachers have also increased in noticing the issues of students and supporting students in the study process.

In schools, it is possible to:

- implement speech therapist assistance to overcome the difficulties in reading and writing of students;
- receive psychological counselling;
- receive support teaching or consultation outside of classes;
- receive study help in a study help group (the groups are meant for basic school students with (temporary) study difficulties related to certain subjects, undeveloped study skills and issues related to speech therapy who are not able to fulfil the requirements of the study programme or need a supportive study organisation to develop study skills and study habits despite the support and counselling of the class teacher and subject teachers; maximum of 6 students per group);
- compose an individual study programme for the student in one or several subjects; provide increased or decreased requirements for content of study and results of study therein compared to the study programme of the school, differences in study organisation, change the time of achieving study results, that is, to either lengthen or shorten the period of study, apply suitable teaching methods, etc.;
- form separate classes for students with learning difficulties (up to 12 students per class);
- form separate classes for students with special needs, including children with behavioural issues;
- form long day groups where the free time of students after lessons is used in a meaningful way; educational instructions for fulfilling home exercises is offered as well as study help and the possibility to take part in recreational activities; and
- according to the new Basic Schools and Upper Secondary Schools Act (entered into force on 01.09.2010; publication citation RTI, 05.07.2010, 41, 240), schools have to

provide psychological, special educational as well as social pedagogical counselling if necessary; a position for a coordinator of study of students with special needs related to education will generally be provided in schools. The types of classes provided for students with special needs related to education have been substantially extended, the limits of students in such classes have been reduced and possibilities to carry out studies in the conditions of a small class (up to 4 students) or individual studies. All this should help decrease dropping out of basic school even more.

Carrying out student evaluations with students has been compulsory for schools since 2006 and the respective requirement is also provided in the Basic Schools and Upper Secondary Schools Act. A student evaluation is a confidential discussion between a teacher, student and parent with the aim of cooperating in order to develop the child, to find the best means for creating suitable conditions for the development of the child, the development potential of the child is used to a maximum extent, possible difficulties in studying and behaviour are prevented and the positive attitude and support for the student are emphasised.

Various possibilities have been created at the national level to support schools and teachers with the aim of ensuring the development and acquisition of general competence of all students. Teaching materials (textbooks and work exercise-books) and medical care are free of charge for basic school students and a benefit for school lunches is granted. Students also have the chance to participate in recreational activities, above all study groups related to certain subjects, in educational institutions free of charge with the support of the local government. Transport between school and home is free of charge or heavily subsidised in most rural areas. Students who are studying in schools with boarding school facilities due to their social background (children from families with difficulties in coping) are also provided free food and accommodation in the boarding school facilities.

Involvement of children with special needs related to education in both preschool child care institutions and general schools requires a more efficient counselling service than before. For this purpose, the ESF programme "Development of Study Counselling System 2008-2011" was initiated in 2008. In the framework of the programme, support centres (study counselling centres) have been created in every county where schools and parents can receive professional support from specialists to support the development of students.

The ESF programme “Development of Teaching Materials for Students with Special Needs Related to Education” was also initiated in 2008, during which the respective teaching

materials for a simplified national study programme for basic schools and study programmes for coping will be composed.

In-service training events have been organised and planned for teachers at a national level in the framework of the ESF programme "Raising Qualification of Teachers of General Education 2008-2014" in order to provide them with better skills and knowledge for working with students with study problems and behavioural disorders, but also for teaching students who are sick.

Funding has been found from the open application round of the ESF for projects that are directed at supporting students with special needs, improving the study environment and increasing the professional level of teachers and support specialists.

The drop-out rate from the general education system as a whole (i.e. from basic schools and upper secondary schools with both daytime study and evening study) has decreased to 2.0% of students. The majority of such students (64%) were students who were studying in the forms of evening study and distance education.

The report states that various measures can be taken to encourage attendance, such as learning support, individual curricula, separate classes, counselling communities, "long day" schools and boarding school facilities. It notes that if attending a long day group is not sufficient and if the problems with fulfilment of the obligation to attend school are associated either with the lack of necessary learning or living conditions at home or the distance between home and school, a student may be referred to boarding school facilities. The Committee asks about the results of these measures.

The service of long day groups after the end of lessons is offered to students in 72% of general education schools. In the 2006/2007 academic year, 55% of students in the 1st stage of study, 28% of students in the 2nd stage of study and 8.1% of students in the 3rd stage of study took part in this service. Long day groups are generally groups formed of students of one class and sometimes of two classes where the free time of students after lessons is used in a meaningful way; educational instructions for fulfilling home exercises is offered as well as study help and the possibility to take part in recreational activities. An additional meal is provided to students during the long day group in most schools. This allows for parents to finish their working days without having to worry about the well-being of their children. Participation in long day groups is voluntary. Work of long day groups generally takes place until 4 p.m. or 5 p.m., depending on the organisation of transport in rural areas to a large extent.

We have no data available about the efficiency of long day groups because other measures are usually combined with this service. State supervision observed the efficiency of support systems, including long day groups in schools during the last three years. Based on that it can be stated that thanks to the support systems, 90% of students who had poor marks for certain quarters of the academic year finished the class; out of students who had been transferred to the next class with poor marks, 62% of students finished the class and 54% of persons who were required to repeat the year finished the class.

An average of 50% of students out of all students who have had issues with fulfilling the obligation to attend school and who have been potential drop-outs and have therefore been sent on a state funded spot in boarding school facilities have successfully graduated basic school.

Separate surveys about the efficiency of long day groups have not been carried out, as mentioned above. However, it has been researched how many students need/use additional study help and whether the current additional study help is sufficient or not.

The survey “Child with Learning Difficulties in Basic School: Issues and Need for Help" was financed by the project "Prevention of School Drop-Out by Increase of Social Coping" from the open application round of the ESF in the years 2009/2010. In the framework of the project, 1,008 students over Estonia were questioned. The results of the survey showed that study help is critically important for about half of the student body represented by children at risk (issues with studying, absence without reason, conflicts in school or at home) and children in distress (students who are in danger of dropping out of schools). It can be concluded based on the survey that the need for a regular study help system provided by the school is substantial and long day groups are one of the possible solutions.

Table 18: Average size of a class in the 1st and 2nd stages of study (grades 1-6), 2005-2009.

County	Number of students					Number of classes					Average size of a class				
	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010
Harju County	25, 974	25, 453	25, 673	25, 506	25, 872	1,152	1,153	1,168	1,180	1,200	22.5	22.1	22.0	21.6	21.6
…except Tallinn	7,150	7,168	7,447	7,135	7,362	399	408	426	416	432	17.9	17.6	17.5	17.2	17.0
…Tallinn	18, 824	18, 285	18, 226	18, 371	18, 510	753	745	742	764	768	25.0	24.5	24.6	24.0	24.1
Hiiu County	692	613	562	534	504	43	39	39	36	34	16.1	15.7	14.4	14.8	14.8
Ida-Viru County	8,006	7,826	7,737	7,749	7,732	398	396	404	413	416	20.1	19.8	19.2	18.8	18.6
Jõgeva County	2,489	2,323	2,182	2,056	1,996	144	143	140	134	131	17.3	16.2	15.6	15.3	15.2
Järva County	2,257	2,099	2,031	1,925	1,817	139	134	136	136	130	16.2	15.7	14.9	14.2	14.0
Lääne County	1,820	1,664	1,558	1,483	1,381	106	105	108	101	102	17.2	15.8	14.4	14.7	13.5
Lääne-Viru County	4,213	3,963	3,801	3,669	3,566	234	229	229	222	221	18.0	17.3	16.6	16.5	16.1
Põlva County	2,069	1,914	1,809	1,625	1,534	134	128	133	122	117	15.4	15.0	13.6	13.3	13.1
Pärnu County	5,560	5,222	5,066	4,958	4,841	310	298	305	293	284	17.9	17.5	16.6	16.9	17.0
Rapla County	2,566	2,351	2,274	2,154	2,060	164	155	155	151	146	15.6	15.2	14.7	14.3	14.1
Saare County	2,233	2,060	1,882	1,766	1,725	128	128	117	112	113	17.4	16.1	16.1	15.8	15.3
Tartu County	8,556	8,250	8,109	7,913	7,895	396	397	407	412	410	21.6	20.8	19.9	19.2	19.3

…except Tartu City	2,824	2,677	2,677	2,583	2,638	172	170	175	174	169	16.4	15.7	15.3	14.8	15.6
…Tartu City	5,732	5,573	5,432	5,330	5,257	224	227	232	238	241	25.6	24.6	23.4	22.4	21.8
Valga County	2,294	2,147	2,017	1,940	1,891	130	125	126	122	123	17.6	17.2	16.0	15.9	15.4
Viljandi County	3,479	3,247	3,051	2,929	2,837	205	194	191	185	186	17.0	16.7	16.0	15.8	15.3
Võru County	2,559	2,357	2,238	2,118	2,003	144	138	140	131	126	17.8	17.1	16.0	16.2	15.9
TOTAL Estonia	74, 767	71, 489	69, 990	68, 325	67, 654	3,827	3,762	3,798	3,750	3,739	19.5	19.0	18.4	18.2	18.1

Note: Daytime study of general education, state and municipal general education schools, except classes for students with special needs related to educa

Source: Estonian Education Information System

Table 19: Average size of a class in the 3rd stage of study (grades 7-9), 2005-2009.

County	Number of students					Number of classes					Average size of a class				
	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010	2005/ 2006	2006/ 2007	2007/ 2008	2008/ 2009	2009/ 2010
Harju County	18, 433	16, 154	14, 488	13, 146	12, 655	685	628	591	562	554	26.9	25.7	24.5	23.4	22.8
…except Tallinn	4,960	4,450	4,009	3,440	3,340	214	201	197	182	185	23.2	22.1	20.4	18.9	18.1
…Tallinn	13, 473	11, 704	10, 479	9,706	9,315	471	427	394	380	369	28.6	27.4	26.6	25.5	25.2
Hiiu County	537	486	405	360	308	29	27	23	20	19	18.5	18.0	17.6	18.0	16.2
Ida-Viru County	5,714	4,910	4,289	3,892	3,806	249	228	209	201	199	22.9	21.5	20.5	19.4	19.1
Jõgeva County	1,885	1,674	1,481	1,316	1,210	82	77	73	73	71	23.0	21.7	20.3	18.0	17.0
Järva County	1,707	1,563	1,379	1,173	1,059	82	77	74	69	67	20.8	20.3	18.6	17.0	15.8
Lääne County	1,258	1,135	1,078	957	886	62	59	57	59	56	20.3	19.2	18.9	16.2	15.8
Lääne-Viru County	2,889	2,633	2,420	2,195	2,015	136	130	118	116	115	21.2	20.3	20.5	18.9	17.5
Põlva County	1,388	1,307	1,204	1,105	989	70	68	66	65	67	19.8	19.2	18.2	17.0	14.8
Pärnu County	3,902	3,581	3,177	2,808	2,541	167	160	148	145	136	23.4	22.4	21.5	19.4	18.7
Rapla County	1,796	1,667	1,482	1,360	1,253	84	81	76	74	73	21.4	20.6	19.5	18.4	17.2
Saare County	1,757	1,558	1,427	1,288	1,150	81	73	69	68	66	21.7	21.3	20.7	18.9	17.4
Tartu County	5,813	5,322	4,806	4,381	4,112	222	208	199	190	185	26.2	25.6	24.2	23.1	22.2
…except	1,931	1,787	1,583	1,458	1,309	95	89	85	81	78	20.3	20.1	18.6	18.0	16.8

Tartu City															
…Tartu City	3,882	3,535	3,223	2,923	2,803	127	119	114	109	107	30.6	29.7	28.3	26.8	26.2
Valga County	1,532	1,393	1,277	1,205	1,166	67	63	59	61	60	22.9	22.1	21.6	19.8	19.4
Viljandi County	2,459	2,187	1,988	1,803	1,651	114	108	103	103	95	21.6	20.3	19.3	17.5	17.4
Võru County	1,854	1,720	1,554	1,414	1,314	92	88	82	78	77	20.2	19.5	19.0	18.1	17.1
TOTAL Estonia	52, 924	47, 290	42, 455	38, 403	36, 115	2,222	2,075	1,947	1,884	1,840	23.8	22.8	21.8	20.4	19.6

Daytime study of general education, state and municipal general education schools, except classes for students with special needs related to education

Source: Estonian Education Information System

The Committee wishes to receive information on the rate of non-attendance among rural children and the evolution of this rate, as well as information on the progress made in implementing any measures to encourage attendance from children in rural areas.

The fulfilment of the obligation to attend school has improved over the last few years. This can be attributed to the possibility to receive free lunch at school (this is the only warm meal per day for some children) and the programmes of boarding school facilities (students who previously ignored the obligation to attend school are attending school in an orderly manner because they are under constant pedagogical surveillance).

Transport to the school and back home has been organised in all rural municipalities. The social cohesion and surveillance are stronger in rural areal, hence the better fulfilment of the obligation to attend school. There are more temptations and possibilities to spend free time in cities for children, the human environment is more anonymous, therefore issues with being absent for classes are bigger.

Many provisions of the new Basic Schools and Upper Secondary Schools Act are directed at improving the fulfilment of the obligation to attend school of students and decrease the drop-out rate. The liabilities of the parent, school and the rural municipality or the city have been specified more accurately in the new Act, *inter alia* when it comes to informing of the absence of a child.

If a student cannot take part in studies for some reason, the parent must inform the school immediately. In case the student is absent and the parent has not informed the school of the reasons for absence, the school must contact the person during the next day at the latest and find out the reason why the student was absent from studies. If the school is unable to find out the reason for absence of a student due to not achieving a contact with the parent, the school will immediately inform the rural municipality or city of residence of the student. The rural municipality or the city must appoint a position or structural unit with the obligation of dealing with persons who do not fulfil the obligation to attend school.

Something must be immediately done in case of students who are absent without reason or do not fulfil the internal rules of a school and various supportive and action measures may be implemented for them (appointing a support person, temporary ban on taking part in studies with the obligation to achieve the required study results by the end of the period, the obligation to stay at school after the lessons are over in addition to the traditional discussion with the student and the parent and their counselling, sending to a long day group and boarding school facilities). In case the measures implemented by the school or the local

government to ensure the fulfilment of the obligation to attend school have had no results or the parent refuses to accept them, it is possible to fine the parent.

The Ministry of Education and Research is not collecting statistics regarding absence from school. The supervision over and data collection of absence is in the competence of schools. According to the new Basic Schools and Upper Secondary Schools Act, schools have to enter information about students who have been absent for more than 20% lessons without reason during a quarter of an academic year into the Estonian Education Information System from 1 September 2010.

Very many schools have joined the so-called e-school project, which allows parents (and children) to have a constant overview of the participation in studies and study results of children as well as the obligations they have to fulfil.

Article 19: The right of migrant workers and their families to protection and assistance

Article 19 § 1: Free assistance and information services

General regulation

The general principles of the ban on discrimination are provided in the Constitution of the Republic of Estonia (hereinafter the Constitution). According to the Constitution, 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. The incitement of national, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law. The incitement of hatred, violence or discrimination between social strata is also prohibited and punishable by law.

Issues related to discrimination are more precisely regulated with the Penal Code, the Gender Equality Act and other legislation.

Three violations of law against equality are provided in the Penal Code: incitement of hatred (§ 151), violation of equality (§ 152) and discrimination based on genetic risks (§ 153).

The Gender Equality Act entered into force on 1 May 2004. The purpose of the Act is to ensure equal treatment and to promote gender equality of men and women as a fundamental human right and for the public good in all areas of social life. For the given purpose, the Act provides for:

1) the prohibition on discrimination based on sex in the private and public sectors;
2) the obligation of state and local government agencies, educational and research institutions and employers to promote gender equality of men and women; and
3) the right to claim compensation for damage.

Equal Treatment Act entered into force on 1 January 2009. In order to fulfil the objective, the following is provided by law:

1) the principles of equal treatment;
2) duties upon implementation and promotion of the principle of equal treatment;
3) resolution of discrimination disputes.

Discrimination of persons on the grounds of nationality (ethnic origin), race or colour is prohibited in relation to:

1) conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;
2) entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination of employment contracts or contracts for the provision of services, release from office;
3) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
4) membership of, and involvement in, an organisation of employees or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations;
5) social protection, including social security and healthcare, and social advantages;
6) education;
7) access to and supply of goods and services which are available to the public, including housing.

Discrimination of persons on the grounds of religion or other beliefs, age, disability or sexual orientation is prohibited in relation to:

1) conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;
2) entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination of employment contracts or contracts for the provision of services, release from office;
3) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;
4) membership of, and involvement in, an organisation of employees or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations.

Measures for implementation of legal regulation

The possibility to address the Chancellor of Justice in issues related to discrimination was explained in the previous report.

The Committee asks more details on the policy of prevention work and surveillance of the situation with regard to the prevention of misleading propaganda.

The Committee asks whether there are services providing practical information measures that may facilitate integration in Estonia.

The Integration and Migration Foundation (hereinafter MEIS) deals with counselling and providing of material support to foreignes. MEIS provides support to both persons who wish to return to Estonia as well as those who wish to leave Estonia. The reunion of families of different nationalities is likewise supported.

MEIS offers advice for both immigrants and emigrants about different issues of the migration process, for example about the documents that will have to be prepared, who are eligible to apply for travel allowance and how to apply for it, how to find a job or a place in a school or nursery school in the new residence, etc. The information is accessible in Estonian, Russian and English at the web site http://www.meis.ee/sihtasutus. Answers to frequently asked questions are provided on the web site. Persons can also receive advice via phone or in the counselling office of MEIS at reception hours.

NGOs related to integration are:

- Estonian Association of Open Youth Centres (http://www.ank.ee/eank/);
- Union of Teachers of Estonian as Second Language (http://www.eestikeelteisekeelena.ee/);
- Estonian Youth Work Centre (http://www.entk.ee/);
- School Life (http://www.koolielu.ee/);
- Miksike (http://www.miksike.ee/); and
- National School in Estonia (http://www.rahvuskool.ee/).

The International Organisation for Migration (IOM) has a programme of voluntary returning and re-integration, the purpose of which is to support voluntary returning of asylum-seekers and other illegal migrants to their homes. An organised, safe and dignified return will be ensured in the course of the programme along with possibilities for re-integration. The

programme is financed by the European Return Fund and the Ministry of Internal Affairs of the Republic of Estonia.

Statistics

See also Article 19 § 2.

Article 19 § 2: Measures to facilitate departure, journey and reception

General regulation

According to the Constitution, everyone has the right to leave Estonia. This right may be restricted in the cases and according to procedure provided by law to ensure the administration of court or pre-trial proceedings, or to execute a court judgment. The regulation of working in Estonia has been described in the explanations given about Article 18 in the Second Report provided within the framework of article 22 of the Social Charter by the Republic of Estonia.

The Committee notes that in Estonia, there are no services in the health and medical field aimed specifically at migrant workers. In the previous conclusion, the Committee noted that under the Health Insurance Act all employed (and self-employed persons) are compulsorily insured for health care; further the Health Care Administration Act requires that emergency medical care be provided to all those staying in Estonia. The Committee asks that the next report provide information on the practical implementation of this Act where it concerns health and medical attention to migrants and on access to care for migrant workers and their families.

The social security system of Estonia is not based on citizenship, i.e. persons are not separated based on citizenship and equal treatment is ensured. There are only a few minor exceptions to this rule, but they are insignificant and irrelevant to this topic.

The Health Insurance Act regulates solidarity-based health insurance (subsection 1 (1)). An insured person is a permanent resident of Estonia or a person living in Estonia on the basis of a temporary residence permit or right of residence, for whom a payer of social tax is required to pay social tax or who pays social tax for himself or herself according to the procedure, in the amounts and within the terms provided for in the Social Tax Act, or a person considered equal to such persons on the basis of the Act (subsection 5 (1)).

The Health Services Organisation Act provides for the obligation of providing emergency care (§ 5). Emergency care means health services that are provided by health care professionals in situations where postponement of care or failure to provide care may cause the death or permanent damage to the health of the person requiring care. According to § 6

of the Act, every person in the territory of the Republic of Estonia has the right to receive emergency care.

Emergency care provided to persons insured by compulsory health insurance and persons equal to them will be paid for from the funds designated for health insurance in the state budget. Emergency care provided to a person not covered by health insurance shall be paid for out of the means prescribed for such purposes in the state budget on the basis of a contract entered into between the Ministry of Social Affairs and the Estonian Health Insurance Fund.

Measures for implementation of legal regulation

The Integration and Migration Foundation (hereinafter the MEIS) is dealing with counselling and providing of material support to foreigners. MEIS provides support to both persons who wish to return to Estonia as well as those who wish to leave Estonia. The reunion of families of different nationalities is likewise supported.

42 Estonians and citizens of Estonia returning from foreign states received an allowance to return to Estonia from the Estonian Migration Foundation, the predecessor of MEIS in 2009. The number of returning people was higher by 200 in 2008. The travel allowance was paid to 242 applicants in 2008.

The returning persons in 2009 were mostly younger persons, like in 2008. Out of the 42 persons, 31 persons were of working age, 7 were children and only 4 were of retirement age. The countries of origin were Russia (26 returning persons, 18 of them from Petserimaa), followed by the United States of America (5) and Italy (3).

The Migration Foundation paid travel allowances in a total sum of 695,000 kroons. The average amount of travel allowance paid per returning person was increased to 16,547 kroons in 2009. The amount was 7,882 kroons in 2008 and 13,923 kroons in 2007, respectively.

48 persons received a re-migration or emigration allowance for leaving Estonia; this was 22 persons less than in 2008. Two retired military personnel of the Soviet Army and 10 persons subject to expulsion were among the persons receiving allowance.

Foreigners who have permanently lived in Estonia for at least the last 10 years and wish to permanently settle in their countries of origin or another country can apply for re-migration allowance. The biggest number of persons (31) left to settle in Russia with the help of the allowance while 6 persons left for Azerbaijan. Out of the persons receiving the re-migration allowance, 13 persons were of retirement age, 24 persons were of working age and 11 were children.

The average sum of the re-migration allowance was 6,505 kroons in 2009 (4,757 kroons in 2008 and 7,778 kroons in 2007). A total of 247,200 kroons were paid for the allowances (330,000 in 2008 and 879,000 in 2007). An allowance for reaching their homes was paid to 10 persons who received the re-migration allowance for humanitarian considerations in a total sum of 28,500 kroons. Additionally, the re-migration allowance for leaving Estonia was paid to three illegal immigrants and asylum-seekers with the co financing of the European Return Fund and the Ministry of Internal Affairs of the Republic of Estonia.

Statistics

Table 20: Decisions and refusals to grant a temporary residence permit for working by citizenship, 2007-2009.

Citizenship	2007		2008		2009	
	Decisions	Refusals	Decisions	Refusals	Decisions	Refusals
Albanian	1					
Armenian	10	2	13		6	
Azerbaijani	5		7		8	1
Bosnia and Herzegovina	1					
Georgian	7		26		11	2
Croatian	1					
Moldovan	3		13		10	1
Serbian	1				1	
Turkish	5		7		8	1
Ukrainian	380		492	9	444	10
Russian	129		140		241	1
Persons with unidentified citizenship	3		3		2	
TOTAL	546	2	701	9	731	16

Source: Ministry of Internal Affairs

Table 21: Decisions and refusals to extend the temporary residence permit for working by citizenship, 2007-2009.

Citizenship	2007		2008		2009	
	Decisions	Refusals	Decisions	Refusals	Decisions	Refusals
Armenian	2		1		8	
Azerbaijani	1				2	
Bosnia and Herzegovina	1				1	
Georgian	2		6		4	
Moldovan	2				3	
Serbian	1		1		3	
Turkish	1		1		3	
Ukrainian	102		111		47	3
Russian	43		74		92	
Persons with unidentified citizenship	1		4		1	
TOTAL	156	0	198	0	164	3

Source: Ministry of Internal Affairs

Table 22: Applications, decisions and refusals for short-term working by citizenship, 2007-2009.

Citizenship	2007			2008			2009		
	Number of applications	Issued	Refusals	Number of applications	Issued	Refusals	Number of applications	Issued	Refusals
Armenian	11	10	1	2	2		2	2	
Azerbaijani	1	1		2	2				
Georgian	9	8		23	24		8	7	
Croatian	1			2	2				
Moldovan	57	55		33	30		4	4	
Turkish	10	9		3	3		1	1	
Ukrainian	340	345		292	282	5	70	75	
Russian	140	136	4	110	107	1	62	61	
Persons with unidentified citizenship	6	6		3	2				
TOTAL	575	570	5	470	454	6	147	150	

Source: Ministry of Internal Affairs

Providing of emergency care

Table 23: Providing emergency care: Medical treatment expenses of persons not covered by health insurance (accrual).

	Amount, in kroons	Number of persons who received health services	Number of paid invoices (cases of treatment)
2006	98,088,302	23,105	35,540
2007	108,474,014	21,123	35,263
2008	101,664,709	18,245	28,154
2009	97,451,939	17,689	26,161

Source: Ministry of Social Affairs

Table 24: Use of means of subsistence benefit, number of families and number of applications, 2005-2009 (per year).

	2005	2006	2007	2008	2009
Satisfied applications	174,406	112,990	72,541	59,587	106,819
Families who received support	26,752	19,229	12,972	11,391	20,149
Means used, in kroons (thousands)	207,830	135,450	95,207	89,241	177,982

Source: Ministry of Social Affairs

Consistent statistics about emergency social care are unavailable as the care is provided on site to persons in need and services may overlap when providing care. Thus the night shelter service for homeless persons may overlap with the service of emergency social assistance. The providing of care is organized by the structural units of local governments, the institutions administrated by them or different NGOs and churches. NGOs offer social counseling, pastoral services, introduction of vacant jobs and possibilities of retraining and involvement in work-like activities.

Emergency social care is mostly an issue in larger cities. In Tallinn, for example, emergency social assistance is provided according to the conditions and according to the procedure to

persons staying in the administrative region who need emergency social assistance (including foreigners temporarily staying in Estonia and refugees) by providing them with food, clothing and temporary shelter that meets their condition, social counseling, providing of transportation services and temporary shelter in a night shelter or shelter to persons who lost housing due to an accident (housing suddenly becomes unusable). Approximately 1,000 persons received emergency social assistance in Tallinn in 2009. Emergency social care is offered by shelters and food and clothing support is provided by churches in Tartu (the second most populated city of Estonia).

Article 19 § 3: Cooperation between social services in emigration and immigration

General regulation

The general regulation has not substantively changed. According to § 3 of the Social Welfare Act, the principles of social welfare are:

1) the observation of human rights;
2) the responsibility of persons for their own and their family members' ability to cope;
3) the obligation to provide assistance if the potential for a person or a family to cope is insufficient; and
4) the promotion of the ability of persons and families to cope.

According to § 4, the following persons have the right to receive social services, social benefits and other assistance:

1) permanent residents of Estonia;
2) foreignes residing in Estonia on the basis of a residence permit or right of residence; and
3) persons enjoying international protection staying in Estonia.

Every person staying in Estonia has the right to receive emergency social assistance.

Please see also Article 19 (1) and (2).

Measures for implementation of legal regulation

The Integration and Migration Foundation (hereinafter the MEIS) is dealing with counselling and providing of material support to foreignes. MEIS provides support to both persons who wish to return to Estonia as well as those who wish to leave Estonia. The reunion of families of different nationalities is likewise supported.

Please see also Article 19 §1 and 2.

Statistics

Please see Article 19 § 1 and 2.

Article 19 § 4: Equality regarding employment, right to organise and accommodation

a. Remuneration and other employment and working conditions

General regulation

According to § 3 of the Employment Contract Act (ECA), employers must ensure the protection of employees against discrimination, follow the principles of equal treatment and promote equality in accordance with the Equal Treatment Act and Gender Equality Act. Discrimination of persons is forbidden for example when entering into an employment contract, during work, when agreeing on and amending working conditions, giving work orders, remuneration, promoting the employee, cancelling the employment contract, etc. Employers must implement necessary measures in order to provide employees from discrimination.

According to clause 2 (1) 2) of the Equal Treatment Act, discrimination of persons on the grounds of nationality is prohibited in relation to entry into employment contracts or contracts for the provision of services, appointment or election to office, establishment of working conditions, giving instructions, remuneration, termination of employment contracts or contracts for the provision of services, release from office.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the current ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the web page of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html).

It is possible both for employees and employers to receive information from the Labour Inspectorate via telephone as well as book an appointment regarding all issues related to employment relationships. It is possible to receive information related to employment relationships on every working day from the information number of the Labour Inspectorate. The Labour Inspectorate has also organized different training events introducing the ECA. The Labour Inspectorate is obliged to exercise supervision over complying with the requirements of the legislation regulating occupational health and safety.

The Committee asks that the next report indicate any measures or programmes to promote equality of opportunity and treatment for migrant workers. The Committee asks furthermore information on the provision of in-service training and promotion for migrant workers.

Adult Education Act ensures further education, work related education and informal education for all the employees equally. Deriving from the ECA and the Equal Treatment Act, the employer has to follow the principles of equal treatment; therefore all the employees irrespective of them being citizens or migrant worker have the right to training and promotion.

Statistics

The Committee requests that the Government provide information on the situation of the different ethnic groups on the labour market, and their employment levels in public and private sectors.

According to data of the Estonian Labour Force Survey of Statistics Estonia, the statistics for employment by citizenship for 2005-2009 is as follows:

Table 25: Employment statuses of persons aged 15-74 by citizenship.

		2005	2006	2007	2008	2009
Non-Estonian citizenship, total	Labour force, in thousands	122.4	122.1	118.6	125.4	129.2
	Employed persons, in thousands	103.8	109	108.8	113	100.7
	Unemployed persons, in thousands	18.6	13.1	9.9	12.4	28.5
	Inactive persons, in thousands	73.6	64.1	63.1	60.5	59.3
	Labour force and inactive persons, in thousands	196	186.2	181.7	185.9	188.5
	Rate of participation in the labour force %	62.5	65.6	65.3	67.5	68.5
	Employment rate, %	53	58.5	59.9	60.8	53.4
	Unemployment rate, %	15.2	10.7	8.3	9.9	22.1
Russian citizenship	Labour force, in thousands	44	44.1	40.7	46	52.9
	Employed persons, in thousands	36.9	38.5	36.7	41.8	41.6
	Unemployed persons, in thousands	7.1	5.5	4	4.2	11.3
	Inactive persons, in thousands	31.4	27.7	29.3	28.7	27.3
	Labour force and inactive persons, in thousands	75.3	71.7	70	74.7	80.2
	Rate of participation in the labour force %	58.4	61.4	58.1	61.5	66
	Employment rate, %	49	53.7	52.4	55.9	51.9
	Unemployment rate, %	16.1	12.6	9,8	9.1	21.3
Citizenship unidentified	Labour force, in thousands	72	72	72.6	72.6	69.1
	Employed persons, in thousands	61.5	65	66.8	64.9	53.2
	Unemployed persons, in thousands	10.5	6.9	5.9	7.7	15.9
	Inactive persons, in thousands	38.8	32.7	29.8	28.6	29.2

	Labour force and inactive persons, in thousands	110.8	104.7	102.4	101.2	98.3
	Rate of participation in the labour force %	65	68.7	70.9	71.8	70.3
	Employment rate, %	55.5	62.1	65.2	64.1	54.1
	Unemployment rate, %	14.6	9.6	8.1	10.6	23

Source: Statistics Estonia

b. Membership of trade unions and enjoyment of the benefits of collective bargaining

General regulation

The regulation related to employees, including migrant workers belonging to trade unions, participation in collective bargaining and application of collective agreements has not changed in the reporting period.

The Committee asks that the next report confirm that migrant workers are afforded treatment not less favourable in practice with regard to the enjoyment of the benefits of collective bargaining.

The regulation related to membership in trade unions, participation in collective bargaining and application of collective agreements does not separate different categories of workers, that is to say, local and migrant workers are equal. All workers have equal rights. The Government has no accurate analysis available about the collective agreements entered into, but to our best knowledge, there is no practice of collective agreements not applying to migrant workers.

Measures for implementation of legal regulation

Ministry of Social Affairs carried out an open application round for representative organizations of employees and employers in the framework of the period of 2007-2013 of the European Social Fund with the purpose of promotion of collective employment relationships. Several projects with the aim of increasing the awareness of employees about the possibilities for practical use of collective labour law were approved during the application round. The Estonian Central Federation of Trade Unions will organise a web-based training event for representatives and the Trade Union of Estonian Railway Workers will create an information portal reflecting individual and collective employment relationships. Ministry is convinced that the projects approved in the open application round will help raise awareness among migrant workers as well and thereby decrease the possibility of unequal treatment in collective employment relationships even more.

Statistics

According to the Survey of Immigrant Population in Estonia, the employment rate of local workers aged 15-74 was 63.1% and the employment rate of migrant workers in the same age group was 62.4% in 2008. Therefore, the employment rate of migrant workers was very similar to that of local workers. 6.2% of salaried workers were members of trade unions in 2008 according to the Estonian Labour Force Survey. Based on the database of collective agreements, it can be assumed that approximately 10% of workers were covered by collective agreements in 2008.

The Committee asks what the level of unionisation is for migrant workers.

The Government has no data available about the level of unionisation of migrant workers. The Estonian Central Federation of Trade Unions has no data available also.

c. Accommodation

General regulation

The Committee recalls that under Article 19§4 states are obliged to eliminate all legal and de facto discrimination concerning access to public and private housing. There must be no legal or de facto restrictions on home-buying, access to subsidised housing or housing assistance, such as loans or other allowances. In order to assess the situation in full the Committee requests details on the procedures for access to social housing, for migrants who are not permanently resident. In particular it asks whether there are any special regulations which govern their situation.

In general, persons who are entered in the population register of the given local government can apply to rent housing from the local government. Lease contracts are entered into for an unspecified term or for a specified term. Lease contracts are signed until the expiry of the tenant's temporary residence permit if the tenant has a valid residence permit. A new lease contract is entered into if the residence permit is extended. Having a lease contract for housing is an advantage in applying for a new temporary or a permanent residence permit.

Paragraph 2 of the Social Welfare Act stipulates the definition of 'social housing'. Social housing means housing in municipal ownership provided to a person in need of social services. According to Section 14 of the Act, local government authorities are required to provide housing for persons or families who are unable or incapable of securing housing for themselves or their families and to create, if necessary, the opportunity to lease social housing. The procedure for provision and use of social housing will be established by the rural municipality or city council on the basis of the Residence Act. The rural municipality government or city government must help persons who have difficulties with moving about, caring for themselves or communicating in a residence to adapt their housing or to obtain more suitable housing.

Measures for implementation of legislation

Local authorities allocate housing on the basis of the need to house people who are unable to cope either socially or economically, but their priorities are young families with children (single parents), elderly persons, disabled persons and other target groups set out in the Social Welfare Act. Migrant workers are not considered as a separate risk group; they are also viewed as families with children, elderly persons or disabled persons.

Statistics

There were more than 45,000 such households in 2007. One-fourth of tenants live in residential premises owned by the state or local government, the rest (75%) rent their premises from private persons.

Table 26: Number of persons using the housing services on the basis of the Social Welfare Act in different countries, 2005-2008 (as of year end)

	2005	2006	2007[1]	2008 [1]
TOTAL	3,584	4,020	8,957	8,780
Tallinn	1,022	1,394	2,724	2,362
Harjumaa	109	128	552	672
Hiiumaa	10	12	17	21
Ida-Virumaa	377	387	1,439	1,564
Jõgevamaa	27	37	342	284
Järvamaa	226	275	351	354
Läänemaa	76	60	84	89
Lääne-Virumaa	185	203	544	535
Põlvamaa	27	20	227	234
Pärnumaa	108	133	380	368
Raplamaa	145	133	479	480
Saaremaa	64	63	169	172
Tartumaa	992	937	1,037	1,005
Valgamaa	103	134	206	212
Viljandimaa	55	60	126	125
Võrumaa	58	44	280	303

The data for 2007 and 2008 cannot be compared to previous years due to changes in methodology. Earlier years only recognised the provision of housing services in social housing, but persons to whom the service is provided in municipal or social residences for the purposes of the Social Welfare Act have also been included since 2007.

Source: Ministry of Social Affairs

Article 19 § 5: Equal treatment with regard to employment taxes, dues or contributions payable in respect of employed persons

The situation has not changed. The legislation prescribes equal treatment.

Article 19 § 6: Family reunion

General regulation

The entry of foreigners into Estonia, their stay, residence and employment in Estonia and the bases for legal liability of foreigners is regulated by the Aliens Act. For the purposes of the said Act, an foreigner is a person who is not an Estonian citizen. According to the Aliens Act, a residence permit for the purpose of family reunion may be given to settle with spouse or with a close relative.

The Committee recalls that it has previously held that a certain length of residence may be required of migrant workers before their family can join them; however, it considers that five years' residence is required for migrant workers who are not citizens of members states of the EU, citizens of member states of European Economic Area and the citizens of Switzerland. This is excessive and accordingly the situation is not in conformity with the revised Charter.

The current legislation is in conformity with Council Directive 2003/86/EC.

Temporary residence permits to settle with spouse

A temporary residence permit may be issued to settle with spouse who is a foreigner and has resided in Estonia for at least two years if the spouses share close economic ties and a psychological relationship, if the family is stable and the marriage is not fictitious, and if the application for a residence permit is justified.

If a foreigner applies to settle with his or her spouse who resides in Estonia, his or her spouse must have permanent legal income to ensure that the family is maintained in Estonia or the joint permanent legal income of the spouses must ensure that the family is maintained in Estonia. The family must have a registered residence and an actual residence in Estonia, and the foreigner must have an insurance contract guaranteeing that any costs related to his or her medical treatment as a result of illness or injury during the period of validity of the residence permit applied for will be met.

A temporary residence permit to settle with spouse who has not resided in Estonia for two years may be given to an foreigner whose spouse has received a residence permit for employment in the cases listed in clauses 13^2 (1) 1) – 7) or subsection 13^2 (1^1) of the Aliens Act, a residence permit for enterprise or a residence permit for doctorate study. In the said cases, the requirement of a registered residence and an actual residence does not apply. The issue of a residence permit to settle with a spouse who legally resides in Estonia will be refused if the spouse who resides in Estonia or the foreigner who applies for the residence permit does not meet the conditions provided by law, if any other condition for the issue of a residence permit is not complied with, if the application for the residence permit is not justified or other circumstances exist which are the bases for refusal to issue a residence permit.

Temporary residence permits to settle with a close relative

A temporary residence permit to settle with a close relative may be issued to a foreigner to settle with a close relative who is an Estonian citizen or to settle with a close relative who is an foreigner and has a permanent residence permit and is a permanent resident of Estonia in the following cases:

1) to a minor child in order to settle with a parent who permanently resides in Estonia;
2) to an adult child in order to settle with a parent who permanently resides in Estonia if the child is unable to cope independently due to health reasons or a disability;
3) to a parent or grandparent in order to settle with his or her adult child or grandchild who permanently resides in Estonia if the parent or grandparent needs care which it is not possible for him or her to receive in the country of his or her location or in another country and if his or her permanent legal income or the permanent legal income of his or her child or grandchild who legally resides in Estonia ensures the that the parent or grandparent will be maintained in Estonia; and
4) to a person under guardianship in order to settle with the guardian who permanently resides in Estonia if the permanent legal income of the guardian ensures that the person will be maintained in Estonia.

A minor child is a person under 18 years of age. A person who is married, has a separate family or leads an independent life is not deemed to be a minor child. In the cases specified in clauses 1), 2) and 4), a temporary residence permit may be issued to a foreigner to settle

with a close relative provided that the close relative for the purposes of settling with whom the residence permit is applied for has received a temporary residence permit.

A close relative for the purposes of settling with whom a residence permit is applied for must have a registered residence and an actual residence in Estonia and he or she will bear all the costs related to the care and medical treatment of the foreigner specified in clauses 2)-4). The requirements for a registered residence and an actual residence do not apply provided that the foreigner and the close relative for the purposes of settling with whom the residence permit is applied for enter Estonia together.

A foreigner specified in clauses 2)-4) must have an insurance contract guaranteeing that any costs related to his or her medical treatment as a result of illness or injury during the period of validity of the residence permit applied for will be met. A foreigner must have a permanent legal income for the 6 months preceding the application that ensures the subsistence of the foreigner in Estonia. Lawfully earned remuneration for work, income received from lawful business activities or property, pensions, scholarships, support, benefits paid by a foreign state and the maintenance ensured by family members earning legal income are deemed to be legal income.

The issue of a residence permit to settle with a close relative who resides in Estonia will be refused if the close relative who resides in Estonia or the foreigner who applies for the residence permit does not meet the conditions provided by law, if any other condition for the issue of a residence permit is not complied with, if the application for the residence permit is not justified or other circumstances exist which are the bases for refusal to issue a residence permit.

Measures for implementation of legal regulation

A foreigner applying for a temporary residence permit will generally submit the application of a temporary residence permit that complies with the formal requirements for a foreign mission of Estonia to be forwarded to the Police and Border Guard Board for proceeding after an identity check. The following persons may apply for a temporary residence permit at a Citizenship and Migration Bureau of the Board:

- Estonians, their spouses and minor children;
- the spouses and minor children of Estonian citizens;

- a foreigner having a permanent residence permit of another EU Member State who is applying for a temporary residence permit for employment, enterprise or studying and the spouse and minor children of the said foreigner if the family has been established in the Member State that gave the foreigner the permanent residence permit;
- children under one year of age descending from foreigners who reside in Estonia on the basis of a residence permit;
- foreigners for activities in the framework of an international programme of cooperation involving agencies with state or local government participation;
- foreigners who stay in Estonia on the basis of a temporary residence permit and apply for a new temporary residence permit (the said right does not apply to foreigners who have a temporary residence permit for study and who are applying for a temporary residence permit for employment, except for foreignes who have permanently resided in Estonia for at least two consecutive years on the basis of a temporary residence permit for study);
- foreigners to whom the Police and Border Guard Board has granted such permission as an exception on the condition that they are unable to apply for a residence permit at a representation of Estonia for good reason;
- foreigners to whom the Minister of Internal Affairs has, on the basis of a reasoned proposal of a member of the Government of the Republic, granted a permission therefore on the grounds that their entry into Estonia is necessary in the national interests;
- foreigners who are citizens of a state with whom Estonia has entered into an agreement for visa-free travel or whose citizens are unilaterally relieved of the visa requirement in Estonia, and the spouses and children of the specified foreignes; Such states are listed here;
- citizens of the United States of America or Japan, their spouses and minor children; and
- foreigners who settled in Estonia before 1 July 1990 and have not thereafter left Estonia to reside in another country and to whom issue of a residence permit or extension of a residence permit has not been refused or whose residence permit has not been revoked.

Issue of a temporary residence permit or a refusal to issue a temporary residence permit will be decided within 2 months of taking an application into proceeding or elimination of the deficiencies in the application. A foreigner will submit an application for extension of a temporary residence permit that meets the formal requirements for the Police and Border

Guard Board or a Prefecture. The decision for extension of the temporary residence permit or the refusal thereof will be made before 10 days of the expiry of the temporary residence permit at the latest. The application will not be reviewed if the applicant has not eliminated the deficiencies in the application or the documents by the given deadline or submitted all the required documents.

Statistics

Table 27: Decisions to issue a temporary residence permit for family travel by citizenship, 2007-2009.

Citizenship	2007				2008				2009			
	Spouse		Close relative		Spouse		Close relative		Spouse		Close relative	
	Issued	Refused	Issued	Refused	Issued	Refused	Issued	Refused	Issued	Refused	Issued	Refused
Albanian	-	-	-	-	1				1	-	-	-
Armenian	8	1	6		16		7		7		9	
Azerbaijani	13				12	2	2		8		2	
Georgian	7		3		9		2		7			
Croatian					1				2			
Moldovan	7				7		3		6		1	
Citizenship unidentified	5		521	2	5		368		5		238	
Serbian					1				2			
Turkish	11	2	4		15		1		14		2	
Ukrainian	71	2	47	2	75		50	1	74	2	33	1
Russian	281	8	444	22	252	10	396	9	196	2	362	7
TOTAL	403	13	1,025	26	394	12	829	10	322	4	647	8

Source: Ministry of Internal Affairs

Table 28: Applications for a temporary residence permit for employment. Decisions and refusals by citizenship, 2007-2009.

Citizenship	2007			2008			2009		
	Number of applications	Issued	Refusals	Number of applications	Issued	Refusals	Number of applications	Issued	Refusals
Armenian	11	11		10	9				1
Azerbaijani	14	14		7	8				1
Georgian	9	11		8	6				
Croatian	3	1		1	3				
Moldovan	9	10		4	4			1	
Turkish	10	8	1	9	10		2	1	
Ukrainian	92	87	1	41	43		6	7	
Russian	499	491	4	249	241	10	61	54	5
Persons with unidentified citizenship	997	884	3	670	682	3	428	448	3
TOTAL	1,644	1,517	9	999	1,006	13	497	511	**10**

Source: Ministry of Internal Affairs

Table 29: Applications for extension of temporary residence permit for employment. Decisions and refusals by citizenship, 2007-2009.

Citizenship	2007			2008			2009		
	Number of applications	Issued	Refusals	Number of applications	Issued	Refusals	Number of applications	Issued	Refusals
Armenian	15	17	1	8	9				
Azerbaijani	10	10		11	11		1	1	
Georgian	13	14		4	5		3	4	
Croatian	2	2		3	2		1	1	
Macedonian	1	1							
Moldovan	12	12		5	3				
Serbian	1	1		1	1				
Turkish	13	13		5	3				
Ukrainian	101	104	1	75	71		11	9	
Russian	507	476	5	318	337	1	113	113	2
Persons with unidentified citizenship	442	365		620	582		527	575	
TOTAL	1,117	1,015	7	1,050	1024	1	656	703	2

Source: Ministry of Internal Affairs

Article 19 § 7: Equal treatment of migrant workers in respect of legal proceedings

General regulation and measures for implementation of legal regulation

Everyone whose rights and freedoms are violated have the right of recourse to the courts according to the Constitution. Everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional. The courts will observe the Constitution and will declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided by the Constitution or which is otherwise in conflict with the Constitution.

The general regulation regarding competence of administrative courts, the procedure for recourse to administrative courts and the administrative court procedure are prescribed in the Code of Administrative Court Procedure. Various specific laws also contain regulations regarding recourse to courts. According to the Aliens Act, a complaint may be filed against a decision on the issue, refusal to issue, the extension or refusal to extend or revocation of a residence permit or work permit or a decision on the refusal to review an application with an administrative court or such decision may be challenged within ten days after the date of notification of the decision. A decision on the challenge may be appealed in an administrative court within the same term. References for challenging procedures and administrative acts are also prescribed in the Citizen of European Union Act and the Act on Granting International Protection to Foreigners similarly to the Aliens Act.

The conditions and procedure for grant of state procedural assistance are prescribed in the Code of Civil Procedure.

Adjudication of disputes in public law, grant of permission to take administrative measures in the cases provided by law and adjudication of other matters which are placed within the competence of administrative courts by law are in the competence of administrative courts.

Statistics

There is no statistical data available regarding challenging of proceedings of temporary residence permits and temporary residence permits for unemployment, proceedings for right

of residence or proceedings of registration of short-term work in Estonia by migrant workers from countries who have signed the Charter.

Article 19 § 8: Guarantees concerning deportation

General regulation and measures for implementation of legal regulation

A legal basis must exist for a foreigner to stay in Estonia. It is forbidden for foreigners to stay in Estonia without a legal basis. The legal bases for a foreigner to stay in Estonia are prescribed in the Aliens Act. The legal bases for citizens of the European Union, citizens of the European Economic Area and citizens of the Swiss Confederation and the family members thereof to stay and live in Estonia are prescribed in the Citizen of European Union Act.

The bases and procedure for the application to foreigners of the obligation to leave Estonia and the prohibition on entry into Estonia are prescribed in the Obligation to Leave and Prohibition on Entry Act. According to the said Act, a precept to leave Estonia will be issued to a foreigner who is staying in Estonia without a basis to stay. A precept will be valid as of the date of communication of the precept until the obligation imposed on a foreigner by the precept is performed or until basis for stay in Estonia is obtained. The Police and Border Guard Board will declare a precept invalid if basis for the issue of the precept ceases to exist.

An appeal against a decision to issue a precept or a decision made to ensure compliance with a precept may be filed with an administrative court according to the procedure provided for in the Code of Administrative Court Procedure within ten days as of the date of notification of the precept or decision.

A foreigner will be expelled from Estonia upon expiry of the term for compulsory execution of a precept to leave. A foreigner may be expelled with the permission of an administrative court prior to expiry of the term for compulsory execution of a precept to leave or expiry of the term for contestation thereof or without a previous precept if it is necessary to ensure the protection of public order, security, health or moral standards, or to prevent an offence and upon failure to comply with the surveillance measures provided for in the Aliens Act. A person to be expelled will be expelled to the state from which he or she arrived in Estonia, to the country of his or her nationality or to his or her country of habitual residence, or to a third state with the consent of the third state. If there is more than one option, the reasoned preference of the person to be expelled will be the primary consideration, if such preference does not significantly impede enforcement of the expulsion. A foreigner may not be expelled to a state to which expulsion may result in consequences specified in Article 3 of the

Convention for the Protection of Human Rights and Fundamental Freedoms or Article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Sentence, or the application of death penalty. The expulsion of an foreigner shall comply with Articles 32 and 33 of the United Nations Convention relating to the Status of Refugees (together with the Protocol relating to the Status of Refugees of 31 January 1967).

Statistics

There is no statistical data available regarding the number of legally working migrant workers from countries who have signed the Charter who have been expulsed from the state, but there is statistical data regarding the total number of foreigners placed in expulsion centres and foreigners expulsed from Estonia.

Table 30: Foreigners expulsed from Estonia and foreigners placed in expulsion centres.

Year	2008	2009
Foreigners expulsed from Estonia	103	103
Persons placed in expulsion centres	44	55

Source: Ministry of Internal Affairs

Article 19 § 9: Transfer of earnings and savings

The situation has not changed. There is no distinctness.

Article 19 § 10: Equal treatment for the self-employed

General regulation, measures for implementation of legal regulation

The same rights and obligations apply to foreigners with a temporary residence permit for enterprise regarding family reunion, recourse to courts and expulsion as to the foreigners with a temporary residence permit for employment as specified in the Aliens Act and the Obligation to Leave and Prohibition on Entry Act. The requirements of Article 19 (6)-(9) of the Charter regarding the Parties extending the protection and support provided in Article 19 to migrant workers who are involved in enterprises as much as these measures can be implemented for them have therefore been complied with.

Statistics

Table 31: Decisions to issue a temporary residence permit for enterprise by citizenship, 2007-2009.

Citizenship	2007	2008	2009
Russian	2	47	62
Ukrainian		4	4
Azerbaijani			1
Serbian			1
TOTAL	2	51	68

Source: Ministry of Internal Affairs

Article 19 § 11: Teaching language of host state

General regulation and measures for implementation of legal regulation

Under the Basic Schools and Upper Secondary Schools Act (§ 9), on the level of basic education (school years 1-9) any language may be the language of instruction. Under § 9(2) of the Act, the language of instruction is defined as the language in which more than 60% of the study takes place. The owner of a school decides the choice of the language of instruction taking account of the needs of the region and the existing resources: existence of the teachers, possibilities for procuring study materials, etc. Education in basic schools can be acquired in Estonian, Russian, English and Finnish. In 81% of general education schools the language of instruction is Estonian, in 14% Russian, 4% of the schools have departments with instruction either in Estonian or Russian, and in the remaining schools (1%) the language of instruction is English or Finnish. Approximately 60% of pupils in Estonian-medium schools study Russian as a foreign language. Among the languages of historical minority groups, Swedish, Finnish and Hebrew are studied. In cooperation with the Northern Estonian Roma Association, the Ministry of Education and Research has planned various activities for improving the educational opportunities of Roma children.

Under the Basic Schools and Upper Secondary Schools Act, in the upper secondary school stage (school years 10-12), the language of instruction is Estonian. In the upper secondary school stage of municipal schools and in specific classes of municipal schools, any language may be the language of instruction. Permission for instruction in another language is granted by the Government of the Republic on the basis of an application by a local government council. A corresponding proposal is made to the local government council by the board of trustees of an upper secondary school based on the development plan of the school. In private schools, the owner of the school decides the choice of the language of instruction. The transfer to instruction in Estonian started in 2007.

Under the Vocational Educational Institutions Act (§ 18), the language of instruction at vocational schools is Estonian but other languages of instruction may be used. The use of other languages is decided by the Minister of Education and Research. Currently, vocational education in Estonia can be acquired in Estonian and Russian. Under the Vocational Educational Institutions Act (§ 13), curricula of vocational educational institutions are prepared on the basis of the requirements specified in the vocational education standard and the corresponding national curriculum. Under § 22 of the Act, the study of the Estonian

language is compulsory on the secondary school level in vocational educational institutions where Estonian is not the language of instruction: in order to graduate from the school the graduates who acquire secondary vocational education must pass the state examination in the Estonian language. The extent of compulsory study of the Estonian language in vocational educational institutions in groups where the language of instruction is not Estonian is four weeks.

The strategy for the development of Estonian for 2004-2010 provides that graduates of vocational educational institutions should be capable to communicate in Estonian within their speciality and be able to work in an Estonian-speaking environment, and their level of proficiency of Estonian should conform to the qualification requirements for their occupational post. For this, the quality of language teaching needs to be raised and more attention should be paid to learning the language of one's vocational speciality.

Under the Universities Act (§ 22(8)) and the Applied Higher Educational Institutions Act (§ 17), the language of instruction at the level of higher education is Estonian. The use of other languages is decided by the council of a higher educational institution. An exception are specialities of foreign languages where the language of instruction is the target language (e.g. in the speciality of English philology also other subjects besides English are studied in English). At the same time, these two Acts do not define the concept of the "language of instruction". Currently it is possible in Estonia to acquire higher education in Estonian, Russian or English. Mostly the language of instruction is Estonian.

In accordance with the Universities Act and the Applied Higher Educational Institutions Act, students whose proficiency in Estonian is not sufficient to complete the curriculum in Estonian may undertake intensified Estonian language study. In this case their nominal period of studies is extended by up to one academic year.

As of 2008, in addition to the curriculum of their chosen speciality all students may also study Estonian to a different extent and for different periods. Previously, only those students whose score in the Estonian state examination had been below 60 points could receive such support.

The development of the methodology of language immersion has been an important achievement for teaching Estonian. The extended methodology of language immersion has been used in schools and nursery schools where the language of instruction is Russian. A total of 4,460 students from 30 schools with the language of instruction being Russian are taking part in language immersion programmes. Training related to methodology of language

immersion that 150 teachers have passed has been organised for teachers in vocational schools.

MEIS offers various possibilities for learning Estonian in addition to educational institutions. MEIS offers possibilities such as professional Estonian studies, reimbursement of study costs, workplace exchanges between Estonian and Russian-speaking employees, language teaching in institutions, free language studies for citizens of third countries, language studies for Estonians who have returned to Estonia, etc. A large amount of teaching materials has been produced to support these language-learning opportunities.

The foundation's professional language studies are designed to boost the competitive position of students in vocational education and of adults who have already graduated in specific fields on the labour market. One of the aims of such courses is to prepare those participating to take the Level 1 professional Estonian examination. Language courses for hairdressers, beauticians, sales staff, chefs and waiters began in September 2009 and continued through to November 2010. The students on these courses improve their language skills in their given field, thereby improving their position on the current competitive labour market. Passing the professional language examination gives additional value to the learners as the certificate they receive is also recognised elsewhere in Europe. The courses make use of innovative teaching materials especially produced for the courses that contain a wide range of tasks for the development of all aspects of the language. These and other specialist materials are available to everyone at www.kutsekeel.ee.

Language learning was initiated in 57 institutions of the public sector in 2010 with a total of 1,300 persons receiving training. Professional language learning is provided and the Estonian skills of workers of the educational system are supported via different methods.

Language learning is financed by the European Social Fund, the European Fund for the Integration of Third-Country Nationals and the Ministry of Education and Research. The learning has been co financed for three years by the Ministry of Education and Research, the Ministry of Culture, the Ministry of Internal Affairs and the State Chancellery.

The Unemployment Insurance Fund also offers possibilities for learning Estonian to a rather large extent. Learning of Estonian is also organised by the Association of Estonian Adult Educators Andras in the framework of the programme financed by the European Social Fund. Language learning of officials whose native language is not Estonian is also organised by the State Chancellery.

Free of charge language training events for 1,000 persons who are citizens of third countries or stateless or least privileged started in 2009 and were continued in 2010. Compensating for expenses of language learning to all persons who studied in the language courses and passed the level exam started in 2009. Expenses related to language learning have been compensated from the means of the ESF in 1,313 cases in a total sum of 5.6 million kroons in the period of 2009 until the first half of 2010.

All language learners can access the web-based testing system of level in Estonian elaborate by the Tallinn University in 2009 for free of charge (www.meis.ee/testest). The system contains examples of exercises and language tests. The system supports persons in preparing for the Estonian level exams and in developing their language skills.

Language courses have been organised for the unemployed, police and prison officials, rescue workers, medical personnel and teachers in schools where Estonian is not the language of instruction. The Committee asks if these courses are free of charge and if not, what is the amount migrant workers are required to pay and are there facilities available for those migrants who cannot meet the costs. This information is necessary for the Committee in order to assess whether any fee requirements would pose an obstacle for migrants to attend the language training.

The said courses financed from the state budgets and from the European structural funds.

Learning Estonian was organised for over 1,300 persons working in the public sector from Ida-Viru County whose native language is not Estonian in 57 institutions of the public sector in the framework of the programme of the European Social Fund “Development of Language Learning 2007-2010” in the years 2009-2010. Teachers, police officers and library workers, but also workers in other fields received language learning. In addition to that, the State Chancellery organised language training for 330 officials of the public sector in 2008-2009. 160 officials and workers in the fields of education, police, culture and medicine who were from a Russian-speaking living and working environment and had insufficient skill in Estonian participated in the labour force exchange programme in 2008-2010.

As additional information, over 600 persons are receiving free of charge language learning of Estonian in 2010 in the courses carried out by MEIS. 536 persons received free of charge language learning of Estonian in 2009. The free of charge language learning is aimed at the citizens of third countries of Europe and for stateless persons. The language courses support development of communication competence and overcoming the language barrier and possible communication issues. The speech and listening aspects of the language are

developed the most. The purpose is to make the participants able to speak the language at the B1 level. Free of charge language learning courses of Estonian are funded by the European Fund for the Integration of Third-Country Nationals to an extent of up to 75% and from the state budget through the means of the Ministry of Culture to an extent of up to 25%.

Persons also have the possibility to receive support for the language studies. An example of such is the benefit for language learning offered by MEIS and financed by the European Social Fund. The benefit for language learning can be applied for after passing an examination of each language level in an amount of up to 6,000 kroons.

It is also possible to receive refunds from the state budget after passing the examinations; the refunds are performed by the National Examination and Qualification Centre.

Statistics

Table 32: The number of general schools by language of instruction 2005–2009.

Language of instruction	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010
Estonian	492	485	478	473	465
Russian	79	74	66	62	61
Estonian/ Russian	22	22	25	27	28
English	2	2	2	2	2
Estonian/English	1	1	1	1	1
Estonian/Finnish	1	1	1	1	1
TOTAL	597	585	573	566	559

Source: Ministry of Education and Research

Table 33: Number of pupils by language of instruction 2005-2009

Language	2005	2006	2007	2008	2009
Estonian	134,811	127,833	121,348	115,221	110,520
Russian	36,228	32,830	30,045	28,146	27,005
Language immersion	2,645	3,234	3,507	4,024	4,143
English	132	119	161	117	91
Finnish	6	8	10	11	43
TOTAL	173,822	164,024	155,071	147,519	141,802

Source: Ministry of Education and Research

In the school year 2007/2008, there were 77 pupils in Estonian schools who had lived and studied in Estonia for less than three years and whose language of communication at home was different than the language of instruction at school. The overall number of pupils whose native language was different than the language of instruction at school was 5300 in 2007/2008. Of them, the majority were pupils with Russian as their native language or language of communication at home who attended schools or classes where the language of instruction was Estonian. Classes with Russian as the language of instruction were attended by 640 pupils for whom Russian was not the native language.

Table 34: Number of students in higher education in the academic year 2008/2009.

Language of instruction	Estonian	English	Russian	TOTAL
Number of students	60 180	1 076	7 143	68 399

Source: Ministry of Education and Research

Among students starting to acquire higher education there is an equal proportion of those who acquired secondary education either in Estonian or Russian. According to the data of 2007, 8929 pupils graduated from an Estonian-medium upper secondary school (73% of all graduates), of them 5770 (65%) entered a higher educational institution. The number of pupils graduating from a Russian-medium upper secondary school was 3258 (27%), of them 2169 (67%) continued to acquire higher education (60% in 2005).

Among graduates of Russian-medium schools the number of those entering a higher educational institution has increased during the past three years, and in 2007 their number

exceeded by two percent the number of graduates from Estonian-medium schools who continued to acquire higher education.

52% (i.e. 1131) of graduates of Russian-medium schools who entered a higher educational institution in 2007 chose Estonian as the language of instruction on the higher education level. 34% of those continuing to acquire higher education in Estonian and 14.4% (i.e. 316 students) of those continuing with Russian as the language of instruction were admitted to a student place financed from the state budget. Thus, 48% of graduates of Russian-medium schools were admitted to a state-financed student place (the indicator was the same in 2006). 46% (1008) of the graduates continued to acquire higher education in Russian. Of graduates of Estonian-medium upper secondary schools 55% were admitted to a state-financed student place. 3% of graduates of upper secondary schools continued to acquire higher education in English.

In the school year 2008/2009, there were 46 vocational educational institutions in Estonia, of which 9 were privately owned. Russian is used in 21 vocational schools. In 2008/2009 there were 27 239 pupils in vocational education. 32% of those are studying in Russian.

In year 2010 there are 10 universities in Estonia of which 7 have Russian and 10 English groups. There are 20 applied higher educational institutions, in 11 of those it is possible to study in Russian and in 2 in English. In the eight state-owned applied higher educational institutions instruction takes place in Estonian, and in one institution Russian-speaking study groups have been opened. Higher educational institutions in English also exist.

112 hairdressers, beauticians, sales staff, chefs and waiters received professional language studies by MEIS in 2009. The training events held by the foundation took place in Tallinn, Jõhvi, Narva and Kohtla-Järve. Throughout the years, the possibilities offered by MEIS for learning Estonian have increased. While 488 positions were created in 2008 with the help of MEIS, the number was 2,228 in 2009 and 3,224 in 2010. MEIS spent a total of 45.4 million kroons over the three years for learning Estonian.

Article 19 § 12: Teaching native language of migrant

General regulation and measures for implementation of legal regulation

The Government has expressed a clear view that supporting the study of different languages, including languages of national minorities in Estonia, is a priority. On 13 March 2009, the Minister of Education and Research approved the Strategy for Foreign Languages in Estonia 2009-2015. One of the aims of the strategy is to promote linguistic diversity in Estonia and thus create better opportunities for inhabitants to participate in economic, social and political life both in Estonia and abroad.

In order to help maintain the national identity of pupils, schools in cooperation with the state and local authorities ensure possibilities for studying native language and national culture for pupils acquiring basis education whose native language is not the language of instruction in their school. A language learning group may be opened if parents of at least ten pupils with the same native language have submitted a written application with a relevant request. In the school year 2007/2008, Ukrainians (one group), Lithuanians (one group) and Italians (one group) studied their native language and culture as an optional subject within the school curriculum. Each year the Ministry of Education and Research has asked for feedback about successes as well as problems from schools. On the basis of this, amendments to the relevant regulation have been initiated; it is planned to reduce the compulsory number of pupils from ten to five and provide an opportunity to receive support for teaching one's native language both within subject classes as well as hobby groups.

The Hobby Schools Act which entered into force in September 2007 establishes a definition of a hobby school (§ 3) as an educational establishment operating in the area of youth work which creates an opportunity for the acquisition of hobby education and for the diverse development of the personality, including cultivation of one's own language and culture, in different areas of hobby education. In accordance with the Hobby Schools Act, in autumn 2007 the Minister of Education and Research adopted an order on the principles of basic financing of Sunday schools, under which 12 Sunday schools with 178 pupils of different nationalities were financed in the school year 2007/2008. The aim of financing of Sunday schools is to enable ethnic minorities to study their native language and culture. In 2007/2008, Armenian, Azerbaijani, Dagestan, Jewish, Turkish, Ukrainian, Uzbek and Russian Sunday schools were financed. In total 850 000 kroons were allocated for basic financing of Sunday schools in 2008.

19 Sunday schools for providing study of native languages for national minorities were registered in the Estonian Education Information System by the end of 2009; 17 of them were funded from the state budget. The Union of Sunday School Teachers which is a partner of the Ministry of Education and Research was founded in 2008. A system for advising Sunday schools has been elaborated in order to ensure the substantive quality of the work of Sunday schools. The Ministry of Education and Research is in charge of the system by visiting the schools.

Financing from the state budget also continues for extracurricular language learning projects in the form of camp and family study models. The attendance is approximately 1200 young people.

Please also refer to Article 19 § 11.

Statistics

Please refer to Article 19 § 11.

Article 27: The right of workers with family responsibilities to equal opportunities and equal treatment

Article 27 § 1: Participation in professional life

a. Employment, vocational guidance and training

General regulation

Subsection 92 (1) of the Employment Contract Act (ECA) prescribes that an employer may not cancel an employment contract due to an employee being pregnant or having the right to pregnancy and maternity leave. If an employer cancels an employment contract with an employee who is pregnant or raising a child under three years of age, it shall be deemed that the employment contract has been cancelled due to the aforementioned reason unless the employer proves that the employment contract was cancelled on a basis permitted in the ECA. In such a case, the employer must prove that the cancellation was legal. The burden of proof lies with the employer who has to prove that the employment contract was not cancelled on the aforesaid basis but on another basis permitted by legislation as pregnant women and persons raising a child of under 3 years of age are considered a group of employees who need additional protection.

Subsection 93 (1) of the ECA provides a specification for cancellation of employment contract with a pregnant woman or a person raising a child below the age of three years. An employer may not cancel an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity leave or a person who is on parental leave or adoptive parents leave due to a lay-off, except upon the cessation of the activities of the employer or declaration of the employer's bankruptcy if the activities of the employer cease or when the bankruptcy proceedings are terminated without declaring bankruptcy due to abatement of bankruptcy proceedings.

According to subsection 93 (2) of the ECA, an employer may not cancel an employment contract with a pregnant woman or a woman who has the right to pregnancy and maternity leave due to a decrease of the employee’s capacity for work. As the employer may not be aware of the pregnancy of the employee, the said section only applies if the employee has notified the employer of her pregnancy before the receipt of a cancellation notice or within 14 calendar days thereafter. The employee is obliged to submit a certificate confirming the pregnancy at the request of the employer (subsection 93 (3) of the ECA).

The employee has the right to refuse performing work if he or she is on pregnancy and maternal leave or parental leave (§ 19 of the ECA). The employee has the right to return to his or her job when the pregnancy and maternal leave or paternal leave expires. The rights and obligations of the employee remain unchanged when on leave and when returning from leave and the employee returning from leave has the right to continue performing work at the same job with the same conditions as before going on the leave.

According to subsection 18 (5) of the ECA, a woman is entitled to use the improved working conditions which she would have been entitled to during her absence upon termination of maternity and pregnancy leave. For example, a woman has the right to request that her working time be changed if the working time of other employees has been changed during her pregnancy and maternal leave.

Pregnant women and employees raising a disabled child or a child of under three years of age may be sent on a business trip only with their consent. A person who is raising a child of under 12 years of age or a disabled child or caring for a person with total incapacity for work may perform overtime at night or days off only with his or her consent (subsection 21 (3) of the ECA).

The Committee requests information on whether Estonian legislation provides for arrangements enabling parents to reduce or cease their professional activity because of a serious illness of a child.

The Committee requests information in the next report on qualifying conditions and amounts of benefits for workers with family responsibilities in relation to other members of the immediate family who need care and support.

Caring for a family member who is sick is regulated by the Health Insurance Act, according to which caregivers have the right to temporary leave.

Care benefit is a benefit for temporary incapacity for work that the Health Insurance Fund will pay to an insured person in the following events:

- nursing a child under 12 years of age;
- nursing a family member who is ill at home;
- caring for a child under 3 years of age or for a disabled child under 16 years of age when the person caring for the child is ill himself or herself or is receiving obstetrical care (subsection 51 (4) of the Health Insurance Act).

The right to receive care benefit arises as of the first day of release from the performance of work or service duties as specified in the certificate of incapacity for work (subsection 56 (3) of the Health Insurance Act).

The size of care benefit is 80% of the average income per calendar day as calculated from the income subject to social tax of the last calendar year (clause 54 (1) 1^1)).

According to § 59 of the Health Insurance Act, a person nursing a child of under 12 years of age has the right to receive the benefit on the basis of a certificate for care for up to 14 consecutive calendar days. A person nursing another family member at home has the right to receive the benefit on the basis of a certificate for care for up to 7 consecutive calendar days. A person has the right to receive care benefit on the basis of a certificate of care leave for up to 10 consecutive calendar days in case of caring for a child under 3 years of age or for a disabled child under 16 years of age when the person caring for the child is ill himself or herself or is receiving obstetrical care. If a certificate for care leave is issued to several persons caring for one and the same person, the persons have the right to receive care benefit for not more than 14 days in total in case of nursing a child of under 12 years, no more than 7 days in total in case of nursing another family member and no more than 10 days in total in case of caring for a child under 3 years of age or for a disabled child under 16 years of age.

According to subsection 91 (3) of the ECA, an employee may cancel an employment contract extraordinarily if the family duties do not allow him or her to perform the agreed work.

The Committee notes that according to the Working and Rest Time Act, part-time work is applied by agreement between an employee and the employer. The Committee asks whether all workers with family responsibilities are allowed to work part-time or to return to full-time employment.

According to clause 28 (2) 10) of the ECA, it is the obligation of the employer to notify full-time employees of the possibilities of part-time work and vice versa. The purpose of this provision is to ensure that employees are sufficiently informed to choose the most suitable form of work. The employer has the obligation to make sure that the information about the possibilities of part-time or full-time work is accessible for employees; therefore, the notification obligation does not make a difference between employees with family responsibilities and employees without such obligations.

According to § 43 of the ECA, it is presumed that the employee works 40 hours per seven days (full-time work) unless the employer and the employee have agreed on a shorter working time (part-time work). An employer may not cancel an employment contract, *inter alia*, due to an employee being pregnant or having the right to pregnancy and maternity leave, performing important family duties, and if a full-time employee does not want to continue working part-time or a part-time employee does not want to continue working full-time (§ 92 of the ECA).

The Committee asks whether all periods of absence from work due to family responsibilities are taken into account by calculation of pension scheme.

According to § 6 of the Social Tax Act, the state will pay social tax for persons who are paid child care allowance or an allowance for families with seven or more children or a caregiver's allowance for caring for a disabled person on the basis of the Social Welfare Act and for dependent spouses of insured persons who are raising at least one child under 8 years of age or at least one child of 8 years of age until the child completes one year at school or at least three children under 16 years of age.

Paying of the social tax will ensure health insurance and the pension qualifying period for the person and it will be taken into account for determining the amount of pension.

The monthly rate that is the basis for paying social tax will be enacted for a budgetary year with the state budget (§ 2^1 of the Social Tax Act). The monthly rate that is the basis for paying social tax was 4,350 kroons according to the 2009 State Budget Act.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the web page of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-

seadus.html). Instructions in Estonian, English and Russian regarding the rights of parents of children under 3 years of age and pregnant women at work can also be accessed on the web page of the Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

It is possible both for employees and employers to receive information from the Labour Inspectorate via telephone as well as book an appointment regarding all issues related to employment relationships. It is possible to receive information related to employment relationships on every working day from the information number of the Labour Inspectorate. The Labour Inspectorate has also organised different training events introducing the ECA. The Labour Inspectorate is obliged to exercise supervision over complying with the requirements of the legislation regulating occupational health and safety.

The Committee asks that the next report provide any information on measures taken in the field of vocational guidance and training for persons with family responsibilities and any other measures taken to assist them to enter, remain and re-enter employment.

According to § 28 of the ECA, the employer is obliged to assure training events originating from the interests of the company of the employer for developing the occupational knowledge and skills of the employee and cover the training expenses and pay average remuneration during the training events. Subsection 67 (1) of the ECA prescribes employees are entitled to study leave under the conditions and according to the procedure provided for in the Adult Education Act. The Employee has the right to receive holiday without pay for performing entrance examinations.

According to § 8 of the Adult Education Act, employees and public servants will be granted study leave in order to participate in education and training. In order to participate in training, an employee or public servant will granted study leave for up to 30 calendar days per calendar year on the basis of a notice from the relevant educational and training institution. During study leave related to formal education acquired within the adult education system and vocational training, the employee and public servant will be paid the average remuneration for 20 calendar days. An additional study leave of 15 calendar days will be given for finishing formal education acquired within the adult education system for what the employer or public servant will be paid the lowest rate of remuneration established by the Government of the Republic.

According to the Labour Market Services and Benefits act, persons who are registered in the Unemployment Insurance Fund have the right to labour market services and grant of labour market benefits.

Unemployed persons who have been employed or engaged in work or an activity equal to work for at least 180 days during the twelve months prior to registration as unemployed, except in the cases listed in subsection 26 (4) of the Labour Market Services and Benefits Act, and whose monthly income is less than 31 times the daily rate of unemployment allowance have the right to receive unemployment allowance.

Previous employment or engagement in an activity equal to work is not *inter alia* required from an unemployed person who has, for at least 180 days during the twelve months prior to registration as unemployed:

- raised, as a parent or a guardian, a child of up to 18 years of age with a moderate, severe or profound disability, a child under 8 years of age or a child of 8 years of age until the child completed year one at school;
- cared for a sick person, a person who is permanently incapacitated for work or an elderly person; and
- been a caregiver for a disabled person and the rural municipality government or city government has paid him or her allowance for it.

Unemployed persons have a right to career counseling, training, apprenticeship and other services if the services are needed for the person to get a job. In addition to the Labour Market Services and Benefits Act, the Unemployment Insurance Fund is implementing the programme approved by the directive of the Minister of Social Affairs called “Increase in Offering of Qualified Labour Force". In the scope of the activities of the programme (including various kinds of counselling, training, practice etc.) it is, *inter alia*, possible to compensate for expenses due to burden of care (including childcare) if the person is taking part of labour market services at the same time. The said expenses will also be compensated for persons in the first months of employment.

In addition to the aforementioned measures, it is possible for job-seekers (i.e. persons with family responsibilities who are employed or unemployed) to participate in adult vocational trainings organised by vocational and informal training centres. The training events are financed from the state budget and the means of the European Social Fund and are free for participants.

Statistics

Unfortunately, it is not possible to separately bring out the number of labour market services for persons with a burden of care as statistics are not gathered by separate target groups. 600,000 kroons were allocated to the budget of the aforesaid programme in 2010 in order to compensate for expenses related to burden of care (the sum was bigger in the previous years but it was proved to be excessive). 23,500 kroons were spent on the service as of the end of October along with obligations taken.

Table 35: Use of care benefit paid by Health Insurance Fund, 2007-2009.

Care benefit	2007	2008	2009
Number of certificates	104,649	111,299	103,883
Number of days	871,070	949,676	902,775
Amount of benefit (kroons, in thousands)	212,274	287,795	318,444
Average income per day (kroons)	244	303	353
Average time for certificate	8.3	8.5	8.7

Source: Health Insurance Fund

98% of certificates for care leave are comprised of certificates for care of a child of up to 12 years of age whereas 1% are comprised of certificates for care of a children below 3 years of age or a disabled child of up to 16 years of age and 1% are comprised of certificates for care of a family member who is ill. No significant changes in the proportions of the reasons for certificates of care leaves have taken place compared to the previous periods (Health Insurance Fund 2009).

b. Child day care services, other childcare arrangements and family services

General regulation and measures for implementation of legal regulation

Please refer to Article 16.

The Committee asks which methods are applied in order to assess the need for the various services and asks to what extent the need is actually satisfied, in particular for low-income families.

The most common forms of day care are preschool child care and day care centres (88%). Other child day care possibilities are childcare service (as social service), playgroups, etc. There are private kindergartens in the 14% of local governments.

Preschool Child Care

According to the § 10 (1) of the Preschool Child Care Institutions Act, a rural municipality or city government shall provide all children from one and a half to seven years of age whose residence is in the administrative territory of the given rural municipality or city and whose parents so wish with the opportunity to attend a child care institution in the catchment area.

The number of municipal-owned preschools has not decreased in the local governments.

In the beginning of 2009, 39% of local governments had queues to the preschool child care institutions, which compared to previous years had been somewhat diminished. Compared to the 2007, four local governments were able to solve this problem, and in 21 municipalities there were less than 4 children in the queue. The problem is biggest in Harju and Tartu County i.e. close to the biggest cities.

In total, there were 635 pre-school institutions in 2009, over 33% of which were in Harju County, more than one-tenth in Tartu County, nearly one tenth in Ida-Viru County.

According to the § 27 (2) – (4) of the Preschool Child Care Institutions Act, the cost of catering for children at child care institution shall be covered by the parents. The daily cost of catering for children shall be decided by the board of trustees and approved by the director. Other costs (the management costs of the child care institution, remuneration for staff, social tax and the costs of teaching aids) shall be covered out of the rural municipality or city budget funds and, on the resolution of the rural municipality or city council, partially by

parents. The amount covered by parents per child shall not exceed 20 per cent of the minimum wage rate established by the Government of the Republic. If the costs are partially covered by parents, the rural municipality or city council shall establish the rate for the amount to be covered by parents that may vary depending on the age of the child, the management costs of the institution or other circumstances.

A local government can exempt parents (e.g. low-income families, families with many children, single parent families, etc.) from catering costs. For example, in the beginning of 2009, there were three municipalities where parents didn't have to pay for child care. In 2009, according to the survey made[3], parents paid for the catering in 90% of the municipalities and student fees in 70% of the municipalities. In the beginning of 2009, the average amount, paid by the parents for the preschool child care per child in a month was 467 kroons (29.8 EUR).

Day care centres

In 2009, child care was provided by 63 day care centres, that is 62% of the total number of agencies providing day care services (at the end of 2009th, there were 102 day care service agencies). The number of agencies providing services to people of all ages (children, working age, retired) is increasing. However, the activities of various age groups are separated.

In 2009 more than 11 600 children participated in different activities (including recreational and educational activities, and events). As participation is registered, in case of every activity the actual number of service users is actually smaller.

The number of children using the services has increased during last three years (using the same counting methodology) - approximately 2,000 per year.

Childcare service

The childcare service as a social service was implemented in 2007. The requirements to the service are regulated by the Social Welfare Act. According to § 12^1 of the Act, childcare service is a service supporting the ability of the caregiver to cope or work. During the

[3] Ainsaar, M., Soo, K., 2009.

provision of the service, the care, development and safety of a child is guaranteed by a provider of childcare service. The financing of childcare service, the conditions and procedure for the provision childcare service are established by the local governments and therefore they are different in different municipalities. As a rule, the child care service is paid by the parents. Some local authorities support parents covering part of the costs of the service, for example, a special child-care allowance can be paid. The childcare service for children with a severe or profound disability is partly financed from the state budget. The state compensates 5,800 kroons per year for the price of the service for children with severe or profound disabilities. In 2009, the number of the children supported by the state or local governments was 3137 (please see table).

Table 36: Childcare service, 2005-2009.

	2007	2008	2009
Children benefitting from childcare services	2277	2997	3137
- of them with profound disability	25	54	74
- of them with severe disability	35	103	152

Source: Ministry of Social Affairs

Statistics

The Committee requests information on the geographical location across the national territory of such services.

Table 37: Preschool institutions and children by counties, 2005–2009.

		2005	2006	2007	2008	2009
ESTONIA	**Preschool institutions**	**609**	**620**	**624**	**637**	**635**
	Children in preschool institutions	**54560**	**56953**	**58934**	**62116**	**62804**
Harju	Preschool institutions	199	205	206	215	213
	Children in preschool institutions	23274	24642	26077	27786	28979
Hiiu	Preschool institutions	7	7	7	7	7
	Children in preschool institutions	393	399	395	375	359
Ida- Viru	Preschool institutions	60	61	62	62	61
	Children in preschool institutions	6939	7101	7127	7240	7012
Jõgeva	Preschool institutions	22	22	22	23	23
	Children in preschool institutions	1300	1302	1310	1401	1306
Järva	Preschool institutions	21	21	21	22	22
	Children in preschool institutions	1277	1301	1332	1409	1373
Lääne	Preschool institutions	19	19	19	17	17
	Children in preschool institutions	948	989	996	1025	1012
Lääne-Viru	Preschool institutions	28	30	30	30	31
	Children in preschool institutions	2293	2516	2535	2713	2669
Põlva	Preschool institutions	18	18	18	18	18
	Children in preschool institutions	933	976	1004	1072	1076
Pärnu	Preschool institutions	44	46	45	45	46
	Children in preschool institutions	3484	3646	3747	3910	3881
Rapla	Preschool institutions	32	32	32	31	30
	Children in preschool institutions	1376	1403	1504	1613	1534
Saare	Preschool institutions	21	21	21	21	21
	Children in preschool institutions	1275	1283	1387	1411	1404
Tartu	Preschool institutions	60	61	63	66	66
	Children in preschool institutions	6573	6798	6855	7344	7388
Valga	Preschool institutions	22	22	22	22	22
	Children in preschool institutions	1197	1256	1279	1284	1286
Viljandi	Preschool institutions	37	36	37	39	39
	Children in preschool institutions	1871	1890	1934	2039	1995
Võru	Preschool institutions	19	19	19	19	19
	Children in preschool institutions	1427	1451	1452	1494	1530

Source: Statistics Estonia

Article 27 § 2: Parental leave

General regulation and measures for implementation of legal regulation

The Holidays Act was abolished on 1 July 2009 and the provisions for parental leave have been transferred to the new Employment Contracts Act. The general reform of labour law did not bring about any major changes regarding parental leave compared to previous legislation.

According to § 59 of the ECA, women have the right to a pregnancy and maternity leave of 140 calendar days. The said leave becomes collectible no later than 70 calendar days before the estimated birth date given by a doctor or midwife. If a woman starts using pregnancy and maternity leave less than 30 days before the estimated birth date given by a doctor or midwife, the pregnancy and maternity leave is shortened by the respective period. Compensation can be obtained for pregnancy and maternity leave in accordance with the Health Insurance Act. The maternity benefit is 100% of the person's remuneration in the last calendar year.

According to § 60 of the ECA, fathers have the right to receive up to ten working days of paternity leave during the two months before the estimated birth date given by a doctor or midwife and during the two months after the birth of the child.

According to § 61 of the ECA, adoptive parents of a child under ten years of age are entitled to adoptive parental leave of 70 calendar days as of the date of entry into force of the court judgment approving the adoption. Compensation can be obtained for such period in accordance with the Health Insurance Act. The adoption benefit is 100% of the person's remuneration in the last calendar year.

According to § 62 of the ECA, a mother or father is entitled to parental leave until their child reaches the age of three years. One person is entitled to parental leave at a time. Parental leave can be used in one part or in several parts at any time. It is presumed that employees notify employers of taking or interrupting parental leave 14 calendar days in advance, unless the parties have agreed otherwise. If a parent has been deprived of parental rights or if a child lives in a social welfare institution, the parent is not entitled to parental leave. A parent raising a child is entitled to a parental benefit for the duration of the parental leave according to the Parental Benefits Act and child care allowance according to the State Family Benefits Act.

According to §§ 63 and 135 of the ECA, mothers and fathers are entitled to child care leave of 66 kroons per day each calendar year for three working days if they have one or two children under 14 years of age and for six working days if they have at least three children under 14 years of age or at least one child under 3 years of age. Holiday pay will be compensated from the state budget through the budget area of the Ministry of Social Affairs.

The mother or father of a disabled child is entitled to an additional child care leave of one working day per month until the child reaches the age of 18 years, which is paid on the basis of average remuneration. Holiday pay will be compensated from the state budget through the budget area of the Ministry of Social Affairs.

On the year of the child turning 3, 14 or 18 years old the childcare leave will be given regardless of whether the birthday of the child is before or after the leave. If a parent has been deprived of parental rights or if a child lives in a social welfare institution, the parent is not entitled to parental leave. The claim for parental leave will expire upon the end of the calendar year when the obligation falls due.

According to § 64 of the ECA, mothers and fathers who are raising a child of up to 14 years of age or a disabled child of up to 18 years of age are entitled to child care leave without pay of up to 10 working days per calendar year. The claim for parental leave without pay will expire upon the end of the calendar year when the obligation falls due.

According to § 65 of the ECA, guardians and persons with whom a foster care agreement has been entered into are entitled to parental leave, child care leave and child care leave without pay. The actual caregiver of a child is entitled to parental leave.

The Holidays Act provides that a parent or the actual caregiver shall be granted parental leave upon request until the child is 3 years of age. For the duration of the leave the parent or caretaker shall receive child care allowance varying from 300 Estonian Kroons (€19.17) to 600 Estonian Kroons (€38.35) per month, depending on the age and amount of children to be taken care of. The Committee asks what the duration of the parental leave is and when the leave can be taken.

A parent raising a child is entitled to a benefit according to the Parental Benefits Act and child care allowance according to the State Family Benefits Act.

Parental benefit is paid until the child reaches the age of 18 months and the size of the parental benefit is 100% of the remuneration of the last calendar year. A parental benefit

related to the rate of benefit is paid to a parent who has not worked in the previous calendar year (4,350 kroons in 2009 and 2010; 278.02 Euros in 2011). A parental benefit equal to the minimum monthly wage is paid to a person whose average income per month in the previous calendar year was equal to the minimum monthly wage or smaller. The maximum size of the benefit is three times the income in one calendar month subject to social tax. The maximum amount of benefit will be paid to a person whose average income in one month was equal to the determined sum or higher.

It is also possible to receive a parental benefit when working. The parental benefit is paid in full to a working parent if the income subject to social tax of the recipient of the benefit per calendar month is up to the amount of the rate of benefit (4,350 kroons in 2009); if the income subject to social tax of the recipient of the benefit per calendar month is higher than the rate of benefit, the benefit will be decreased according to the amount of the earned income.

After the expiry of the duration of parental benefit, parents are entitled to other benefits prescribed in the State Family Benefits Act, for example child care allowance of 600 kroons (€38.35) for every child less than three years of age until the child reaches three years of age. For the paying of child care allowance, it does not make a difference whether the parent is on a leave, working or unemployed. The purpose of paying the child care allowance is to partially cover the expenses related caring for and raising small children.

Statistics

The Committee asks the next report to provide the number of persons who do actually take parental leave and leave without pay for the care of a child.

Table 38: Persons inactive on the labour market due to pregnancy and maternal or parental leave by age groups, 2003-2009 (average per year, in thousands).

	2003	2004	2005	2006	2007	2008	2009
Persons aged 15-74	22.7	27.2	27.1	23.8	26.5	28.6	34.0
Persons aged 16 until retirement age	22.7	27.2	27.1	23.8	26.5	28.6	33.9
Persons aged 15-24	5.2	7.9	8.4	6.8	6.1	5.4	8.0
Persons aged 25-49	17.5	19.3	18.2	17.0	20.4	23.1	26.0

Source: Statistics Estonia

Table 39: Parental benefits assigned by types as of 31 December 2009.

Type of benefit	Number of benefits assigned	Amount	Average benefit	Proportion (%)
Parental benefit in the amount of 100% of remuneration of one calendar month, total	11,208	148,354,118.28	13, 236.45	
Mothers	10,224	131,356,603.58	12, 847.87	91.2
Fathers	964	16,775,744.25	17, 402.22	8.6
Guardians	8	53,160.34	6, 645.04	0.1
Caregivers	6	71,506.70	11, 917.78	0.1
Adoptive parents	6	97,103.41	16, 183.90	0.1
Foster parents				
Parental benefit assigned in the maximum amount, total	849	25,283,001.00	29, 779.74	
Mothers	656	19,644,864.00	29, 946.44	77.3
Fathers	192	5,607,408.00	29, 205.25	22.6
Guardians				
Caregivers				
Adoptive parents	1	30,729.00	30, 729.00	0.1
Foster parents				
Parental benefits in the amount of minimum monthly wage, total	3,297	14,341,950.00	4, 350.00	
Mothers	3,266	14,207,100.00	4, 350.00	99.1
Fathers	24	104,400.00	4, 350.00	0.7
Guardians	2	8,700.00	4, 350.00	0.1
Caregivers	4	17,400.00	4, 350.00	0.1
Adoptive parents	1	4,350.00	4, 350.00	
Foster parents				
Parental benefits in the rate of benefits, total	2,506	10,280,850.00	4, 102.49	
Mothers	2,484	10,191,900.00	4, 103.02	99.1
Fathers	19	76,650.00	4, 034.21	0.8
Guardians	3	12,300.00	4, 100.00	0.1
Caregivers				
Adoptive parents				
Foster parents				
TOTAL	17,860	198,259,919.28	11, 100.78	

Source: Social Insurance Board

It is also possible to submit the respective data from 2005 if the Committee deems it necessary.

Table 40: Persons receiving child care allowance, 2003-2009 (at the end of the year).

Persons receiving child care allowance[1]	2003	2004	2005	2006	2007	2008	2009
TOTAL	58,800	48,543	50,517	48,355	50,331	46,989	40,928
for a child under 3 years of age	39,039	28,601	29,628	27,722	28,742	24,823	24,108
for children between 3 and 8 years of age in families with up to 3 children	11,000	11,219	11,722	12,076	12,927	13,474	8,122
for children between 3 and 8 years of age in families with more than 3 children	8,761	8,723	9,167	8,557	8,662	8,692	8,698

[1] Since 2009, child care allowance has not been paid for any children per family while receiving parental benefit.

Source: Social Insurance Board

Table 41: Amounts received for additional childcare leave, 2008-2009 (at the end of the year, payments for the year)

	2008	2009
Number of recipients	33,101	29,186
Number of compensated days	117,554	101,969
Sums paid in kroons (millions)	7.8	6.7

Source: Social Insurance Board

Table 42: Extra child care leave of one working day per month, 2003-2009 (at the end of the year, payments for the year)

	2003	2004	2005	2006	2007	2008	2009
Number of recipients	636	779	831	983	1,010	1,150	1,246
Number of compensated days	4,258	5,321	5,980	6,461	7,313	8,868	9,584
Sums paid in kroons (millions)	1.1	1.5	1.8	2.3	3.1	4.5	4.9

… data not received or unreliable for publishing

Source: Social Insurance Board

No statistics available about child care leave without pay.

Article 27 § 3: Prohibition of dismissal for reasons relating to family responsibilities

General regulation

Subsection 92 (1) of the ECA prescribes that an employer may not cancel an employment contract due to an employee being pregnant or having the right to pregnancy and maternity leave. If an employer cancels an employment contract with an employee who is pregnant or raising a child under three years of age, it shall be deemed that the employment contract has been cancelled due to the aforementioned reason unless the employer proves that the employment contract was cancelled on a basis permitted in the ECA. In such a case, the employer must prove that the cancellation was legal. The burden of proof lies with the employer who has to prove that the employment contract was not cancelled on the aforesaid basis but on another basis permitted by legislation as pregnant women and persons raising a child of under 3 years of age are considered a group of employees who need additional protection.

The Committee asks if the courts can insist on reinstatement even if the employer opposes it.

According to subsection 107 (3) of the ECA, the court or labour dispute committee will not satisfy the employer's request if, at the time of cancellation, the employee is pregnant or the employee has the right to a pregnancy or maternity leave unless it is reasonably impossible when considering mutual interests. The labour dispute resolution body has to satisfy the employer's request for termination of employment relationships with the aforementioned persons only if continuing the employment relationship would not be reasonable.

If the employee opts not to be reinstated, he/she will be entitled to compensation. According to Article 30 of the Individual Labour Disputes Resolution Act the compensation is up to six months' average wages determined on the basis of the circumstances surrounding the dismissal and the nature of the irregularity. The limits to levels of compensation that may be awarded are not in conformity with the Revised Charter. The Committee finds that the situation is not in conformity with the Revised Charter on this point.

The said provision in the Individual Labour Disputes Resolution Act has been repealed. The labour dispute resolution body is not connected to the rate of compensation. According to subsection 109 (2) of the ECA, if the court or the labour dispute committee terminates the

employment contract with an employee who is pregnant or who has the right to pregnancy and maternity leave, the employer shall pay the employee compensation to the extent of six months' average wages of the employee. The court or the labour dispute committee may change the amount of the compensation, taking into account the circumstances of cancellation and the interests of both parties. The aforementioned six months is not defined as the absolute maximum limit of the benefit as the court has the right to change the amount of the benefit according to circumstances. In addition to the aforementioned, the employee has the right to claim for additional compensation for damage on the basis of the Law of Obligations Act.

Measures for implementation of legal regulation

The adoption of the ECA was preceded by negotiations with social partners, including the Central Federations of Trade Unions and of Employers. An agreement was reached regarding the essential issues of the ECA as a result of the negotiations.

Training events introducing the ECA have taken and are taking place after the adoption of the ECA both in the public and private sectors.

In addition to the aforementioned, a thorough guidebook introducing the ECA is available on the web page of the Ministry of Social Affairs, including both the text of the Act as well as relevant explanations (address http://www.sm.ee/tegevus/too-ja-toimetulek/toolepingu-seadus.html). Instructions in Estonian, English and Russian regarding the rights of parents of children under 3 years of age and pregnant women at work can also be accessed on the web page of the Ministry of Social Affairs (address http://www.sm.ee/eng/activity/working-and-managing/toolepingu-seadus.html).

It is possible both for employees and employers to receive information from the Labour Inspectorate via telephone as well as book an appointment regarding all issues related to employment relationships. It is possible to receive information related to employment relationships on every working day from the information number of the Labour Inspectorate. The Labour Inspectorate has also organised different training events introducing the ECA. The Labour Inspectorate is obliged to exercise supervision over complying with the requirements of the legislation regulating occupational health and safety.

Statistics

No statistical data available.