



18/12/2018

RAP/RCha/EST/16(2019)

## **EUROPEAN SOCIAL CHARTER**

16<sup>th</sup> National Report on the implementation of the European  
Social Charter  
submitted by

### **THE GOVERNMENT OF ESTONIA**

Article 7, 8, 16, 17, 19 and 27

for the period 01/01/2014 - 31/12/2017

Report registered by the Secretariat on

18 December 2018

**CYCLE 2019**



**EUROPEAN SOCIAL CHARTER  
(REVISED)**

16th Report of the Republic of Estonia on the Accepted  
Provisions

For the reference period 1/1/2014-31/12/2017  
Articles 7, 8, 16, 17, 19, 27

For the period 2014–2017 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 submitted on September 11th, 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, the Estonian Employees Unions Confederation, the Estonian Confederation of Employers, the Estonian Chamber of Commerce and Industry and the Estonian Association of SME's.

## Table of Contents

Table of Contents .....	3
Article 7 – The right of children and young persons to protection .....	5
Subsection 1 – Prohibition on admission of children under the age of 15 years to employment.....	5
Subsection 2 – Provide that occupations regarded as dangerous or unhealthy are prohibited for minors under the age of 18 years .....	9
Subsection 3 – Provide that children who are still subject to compulsory education shall not be employed to work .....	10
Subsection 4 – Working time .....	11
Subsection 7 – Paid annual holiday .....	13
Subsection 8 – Prohibition of night work.....	14
Subsection 9 – Regular medical examinations .....	15
Subsection 10 – Special protection against physical and moral dangers.....	17
Article 8 – The right of employed women to protection of maternity .....	27
Subsection 1 – Maternity leave.....	27
Subsection 2 – The unlawfulness of dismissal a woman from work during their maternity leave...	31
Subsection 3 – Rest breaks for employees who are nursing.....	33
Subsection 4 – Regulation of night work.....	34
Subsection 5 – The prohibition of work that is dangerous, unhealthy or arduous in nature .....	35
Article 16 – The right of the family to social, legal and economic protection .....	36
Housing for families.....	36
Child care facilities.....	38
Family counselling services .....	40
Participation of associations representing families .....	41
Legal protection of families:.....	41
Economic protection of families .....	45
Vulnerable families.....	57
Article 17 – The right of children and young persons to social, legal and economic protection.....	62
Subsection 1 – Assistance, education and training .....	62
Subsection 2 – Provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.....	66
Article 19 – The right of migrant workers and their families to protection and assistance .....	69
Subsection 1 – Immigration assistance and information .....	69
Subsection 2 – Departure, journey and reception .....	73

Subsection 3 – Cooperation between the social services of the countries of emigration and immigration.....	75
Subsection 4 – Equality in terms of employment, the right to organise, and accommodation .....	76
Subsection 5 – Equality regarding taxes and payments.....	83
Subsection 6 – Family reunification .....	85
Subsection 7 – Equality regarding legal proceedings.....	90
Subsection 8 – Guarantees relating to deportation.....	93
Subsection 9 – Transfer of earnings and savings .....	96
Subsection 10 – Equal treatment of self-employed persons .....	97
Subsection 11 – Teaching the language of the host country .....	99
Subsection 12 – Teaching the mother tongue of the migrant .....	100
Article 27 – The rights of workers with family responsibilities to equal opportunities and equal treatment .....	101
Subsection 1 – Participation in work life .....	101
Subsection 2 – Parental leave .....	107
Subsection 3 – The illegality of dismissal due to family responsibilities.....	112

## Article 7 – The right of children and young persons to protection

### ***Subsection 1 – Prohibition on admission of children under the age of 15 years to employment***

#### Legal regulation, measures for the implementation of the regulation

When compared to the previous reporting period, provisions of the Employment Contracts Act (ECA) that concern the employment of minors have been amended. An Act to amend the Employment Contracts Act and other Acts was approved on 12 April 2017 and it came into force on 8 May 2017. The objective of the amendments was to modernize the regulation of working conditions of minors in a way that it would enable more flexible employment relationships, while also ensuring efficient protection to minors in employment relationships.

Pursuant to the amendments, when concluding an employment contract with a minor aged 7–14 years, it is necessary to apply for a permit from the employment register<sup>1</sup>. Provisions concerning the working time of minors were amended so that, in the case of minors who are subject to compulsory school attendance<sup>2</sup>, a differentiation is made between working time during a quarter of an academic year and school holidays; additionally, longer working time is allowed in the case of minors aged 15–17 who are not subject to compulsory school attendance.

According to the ECA, the admissibility and works performed by young people depend on their age, duty to attend school and characteristics of the work. According to the ECA, as a rule, an employer shall not enter into an employment contract with a minor who is under 15 years of age and subject to the obligation to attend school, or allow such a minor to work. The ECA stipulates that a minor who is under 15 years or a minor who is subject to compulsory school attendance can be allowed to work only in specific cases provided in the legal framework of which minors are allowed to work in a limited extent and perform works at a limited level of difficulty. More specifically, an employer may enter into an employment contract with a minor of 13–14 years of age or a minor of 15–16 years of age subject to compulsory school attendance and allow him or her to work if the duties are simple and do not require any major physical or mental effort (light work). Minors of 7–12 years of age are allowed to do light work in the field of culture, art, sports or advertising.

The working and rest time of employees is regulated by Division 3 of Chapter 3 (sections 42–53) of the ECA. Pursuant to amendments introduced to subsection 43 (4) of the ECA, unless the employer and the employee have agreed on a shorter working time, full-time work (shortened full-time work) means:

---

<sup>1</sup>The employment register is a sub-register of the Register of Taxable Persons, which is kept to ensure the performance of legal duties set for the Tax and Customs Board, the Labour Inspectorate, the Unemployment Insurance Fund, the Health Insurance Fund, the Social Insurance Board and the Police and Border Guard Board.

<sup>2</sup>According to subsection 9 (2) of the Basic Schools and Upper Secondary Schools Act, a person who has reached the age of seven years before October 1 of the current year is subject to the duty to attend school (including a person having foreign citizenship or unspecified citizenship; excluding the child of a representative of a foreign country or international organisation accredited to the Republic of Estonia who resides in Estonia). A person is required to attend school until they acquire basic education or attain the age of 17 years.

- 1) in the case of an employee who is 7–12 years of age – 2 hours a day and 12 hours over a period of seven days during a quarter of an academic year outside of school hours and 3 hours a day and 15 hours over a period of seven days during school holidays;
- 2) in the case of an employee who is 13–14 years of age or an older employee who is subject to the obligation to attend school – 2 hours a day and 12 hours over a period of seven days during a quarter of an academic year outside of school hours and 7 hours a day and 35 hours over a period of seven days during school holidays.
- 3) If a minor who is 14 years of age and studying in a vocational educational institution is completing work practice for the purposes of the Vocational Educational Institutions Act, his or her working time may be 7 hours a day and 35 hours over a period of seven days. Under the same conditions, the working time of a minor who is at least 15 years of age may be 8 hours a day and 40 hours over a period of seven days.
- 4) If a minor who is subject to the obligation to attend school performs light work in the field of culture, art, sports or advertising, his or her working time during a quarter of an academic year outside of school hours may be 3 hours a day and 12 hours over a period of seven days.

The procedure of registering employees who are minors was amended as of 2017. An employer may not allow a minor of 7–14 years of age to work before ten working days have passed since the entry of the minor in the employment register provided for in the Taxation Act.

When entering a minor of 7–14 years of age in the employment register, the employer shall enter in the register information about the consent of a legal representative of the minor, the working conditions of the minor, including the minor's place of work and duties and whether the minor is subject to the obligation to attend school. After the employer's registration entry, the labour inspector is required to verify that the work is not prohibited for the minor and the minor's working conditions are in accordance with the requirements provided by law and the minor wishes to do the work. The labour inspector's consent for allowing a minor of 7–14 years of age to work is presumed if the term provided for in the Taxation Act has passed and the labour inspector has not refused to grant consent. An employment contract which has been entered into with a minor of 7–14 years of age is void if as a result of verifying the circumstances (working conditions of the minor, obligation to attend school) the labour inspector refuses to grant consent. An employer is prohibited from allowing a minor to work without the consent or approval of a legal representative.

According to subsection 8 (1) of the ECA, a declaration of intention made by a minor for entry into an employment contract with prior consent of a legal representative is still necessary, unless the legal representative subsequently approves the declaration of intention. The Act also stipulates that if, in ascertaining the intention of a minor of 7–12 years of age, the labour inspector has reasonable doubt that the minor has not declared his or her true intention in the presence of the legal representative, the labour inspector shall ascertain the intention of the minor in the presence of the minor and a local child protection official. According to subsection 21 (1) of the Child Protection Act, upon the adoption of or deciding not to adopt decisions affecting a child and choosing between different options upon planning a decision, the best interests of the child shall be ascertained and they shall be based on as the primary consideration upon the making of decisions. Setting best interests of child as primary consideration is required of, for example, a parent, as well as of other natural persons or legal persons operating in the public or private sector who make decisions that affect the child or children directly or indirectly. Therefore, a legal representative of the minor, when deciding to provide consent for concluding an employment contract with the minor, shall base their decision,



first and foremost, on the child's best interests. This means that the legal representative should be aware of the characteristics of the work the minor is subject to perform, so that the legal representative could assess whether the work at hand might, in any way, harm the interests of the minor. When concluding an employment contract with a minor, the employer shall also base their decision to do so, first and foremost, on the minor's best interests, and employ the minor only for a position that is suitable to them and in compliance with legal requirements. An employer also has the obligation, arising from the Occupational Health and Safety Act (OHSA), to focus on various working environment hazards by taking into account specific features arising from an employee's age when conducting risk assessment. The employer is responsible for the safety of the working environment and the suitability of duties, incl. in the case of a minor.

As the third amendment, in addition to that of minors aged 7–12, a list of work allowed for minors aged 13 years was also stipulated by law; however, the Regulation containing the list previously enforced in relation to work allowed for minors aged 13–16 years and subject to the obligation to attend school was repealed. According to the amendments, an employer may enter into an employment contract with a minor of 13 years of age for the performance of the following work:

- 1) agricultural work;
- 2) ancillary work performed in trade or service establishments;
- 3) ancillary work performed in catering or accommodation establishments;
- 4) other work that is not beyond the minor's physical or psychological capacity, is not likely to harm the moral development of the minor and does not require any major physical or mental effort (light work).

By eliminating the list of work allowed for minors aged 13–16 years and subject to the obligation to attend school, the target group now has the opportunity to perform work for which they are capable in reality. This way, minors gain the opportunity to get work experience of other light work as well. The Labour Inspectorate continues to conduct supervision of the suitability of work for minors. In summary, it can be said that the requirements set to working conditions of children in the ECA are a lot stricter than that set to adults in the same Act. Special attention has also been paid to minors who are subject to the obligation to attend school, to ensure that working would not hinder the performance of the obligation to attend school. Therefore, the ECA ensures a limited working time and adequate rest time for minors, which is necessary to get sufficient rest from school and work.

### Statistics

**Table 1.** Violations concerning employment relationships established with minors, 2014–2017

	2014	2015	2016	2017
§ 7: entry into an employment contract with a minor or admission of a minor for prohibited work	2	1	-	-
§ 8 (1): entry into an employment contract with a minor without consent from the legal representative of the minor	-	2	-	1
§ 8 (3): entry into an employment contract without consent from a labour inspector		-	-	-
§ 43 (4): a minor's working time exceeds the permitted standard	3	3	1	4
§ 44 (2): an overtime work agreement with a minor	-	1	-	-

§ 47 (3): a minor's break is less than 30 minutes for a period of work exceeding 4.5 hours	1	3	-	1
§ 49: violation of the restriction on requiring a minor to work	2	4	1	1
§ 51 (2): violation of requirements of daily rest time of a minor	1	7	1	1
§ 5: a minor's working time standard does not meet the requirements	-	-	-	-
<b>TOTAL</b>	<b>9</b>	<b>21</b>	<b>3</b>	<b>8</b>

*Source: Labour Inspectorate*

**Table 2.** Applications submitted to the Labour Inspectorate for hiring minors (aged 7–14 years) and approved applications

	2014	2015	2016	2017
Number of applications submitted	145	183	189	151*
...number of applications approved	116	139	140	129

*Source: Labour Inspectorate*

\*Data for the first half-year of 2017, as a new procedure, the data for which is not yet accessible, was enforced from the second half of the year

## ***Subsection 2 – Provide that occupations regarded as dangerous or unhealthy are prohibited for minors under the age of 18 years***

### Legal regulation, measures for the implementation of the regulation

In 2014, Estonia submitted information to the Committee regarding the prohibition on occupations regarded as dangerous or unhealthy for minors under the age of 18 years. Since the submission of the information, no changes have been made to the relevant section. ECA (Section 7 (2)) stipulates that an employer shall not enter into an employment contract with a minor or allow a minor to work if the work:

- 1) is beyond the minor's physical or psychological capacity;
- 2) is likely to harm the moral development of the minor;
- 3) involves risks which the minor cannot recognise or avoid owing to lack of experience or training;
- 4) is likely to hinder the minor's social development or the acquisition of his or her education;
- 5) is likely to harm the minor's health due to the nature of the work or the working environment.

In particular, such work, for which the employer may not employ a minor, is provided in Regulation No. 94 of the Government of the Republic of 11 June 2009 "List of occupational hazards and work prohibited to minors<sup>1</sup>". It includes a list of jobs that minors should not do and the risk factors that can be harmful to the minor's health.

### Statistics for 2014-2017

Violations of employment relationships with minors are given in Table 1.

### ***Subsection 3 – Provide that children who are still subject to compulsory education shall not be employed to work***

#### Legal regulation, measures for the implementation of the regulation

Compared to the previous reporting period, changes referred to in subdivision of subsection 1 of Article 7 have been introduced to the ECA. The Act to amend the Employment Contracts Act and other Acts was adopted on 12 April 2017 in order to modernize the regulation of working conditions of minors in a way that it enables more flexible employment relationships, while also ensuring efficient protection to minors in employment relationships. Provisions concerning the working time of minors were amended so that, in the case of minors who are subject to compulsory school attendance, a differentiation is made between working time during a quarter of an academic year and school holidays; additionally, longer working time is allowed in the case of minors aged 15–17 who are not subject to compulsory school attendance.

The Committee has inquired whether a rest period of at least two consecutive weeks has been set for young people during their summertime school holiday.

Subsection 8 (2) of the ECA stipulated that a legal representative of a minor may not consent to the employment during the school holiday of a minor subject to the obligation to attend school for more than a half of each term of the school holiday.

School holidays are set by the Minister of Education and Research. The duration of school holidays is usually one week, except in the case of Christmas and summer holidays. When scheduling school holidays, it has to be taken into account that a school shall have at least four school holidays (with a total duration of 12 weeks) per academic year and the summer holiday shall last at least eight consecutive weeks.

Taking into account that a child who is subject to the obligation to attend school is not allowed to work for a duration exceeding half of their summer holiday, their summer holiday shall last at least four consecutive weeks and other school holidays (that last a week) at least 3.5 days.

#### Statistics

According to data of Statistics Estonia, in 2014, there were 4,300 employed persons among people aged 15–19 years, 1,800 of them were also studying; in 2017, there were 7,400 employed persons in that age group and 3,600 of them were studying (see the following Table).

**Table 3.** Number of people aged 15–19 years during 2014–2017

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Total of workforce and non-active persons	61,300	59,800	59,900	59,500
Employed persons	4,300	5,900	6,600	7,400
...incl. those studying	1,800	3,100	3,600	3,600

Source: Statistics Estonia, Estonian labour force surveys

## ***Subsection 4 – Working time***

### Legal regulation

Compared to the previous reporting period, changes referred to in subdivision of subsection 1 of Article 7 have been introduced to the ECA. The Act to amend the Employment Contracts Act and other Acts was adopted on 12 April 2017 in order to modernize the regulation of working conditions of minors in a way that it enables more flexible employment relationships, while also ensuring efficient protection to minors in employment relationships. Provisions concerning the working time of minors were amended so that, in the case of minors who are subject to compulsory school attendance, a differentiation is made between working time during a quarter of an academic year and school holidays; additionally, longer working time is allowed in the case of minors aged 15–17 who are not subject to compulsory school attendance.

Upper limits have been set for the working time of minors pursuant to subsection 43 (4) of the ECA and according to the age and obligation to attend school of the minor. It is also possible to apply summarised working time with regard to a minor; however, restrictions set out in subsection 43 (4) of the ECA should be taken into account when doing so (subsection 43 (5) of the ECA).

Daily rest time of minors (subsection 51 (2) of the ECA) was amended in 2017, so that the following agreements are now void:

- 1) an agreement by which an employee who is 7–12 years of age is left over a period of 24 hours during a quarter of an academic year with less than 22 hours of consecutive rest time and during school holidays with less than 20 hours of consecutive rest time;
- 2) an agreement by which an employee who is 13–14 years of age or an older employee who is subject to the obligation to attend school is left over a period of 24 hours during a quarter of an academic year with less than 21 hours of consecutive rest time and during school holidays with less than 15 hours of consecutive rest time;
- 3) an agreement by which an employee who is 15–17 years of age and not subject to the obligation to attend school is left over a period of 24 hours with less than 14 hours of consecutive rest time.

Night work by a minor is regulated by subsection 49 (1) of the ECA, according to which the following agreements are void:

- 1) an agreement by which an employee who is subject to the obligation to attend school undertakes to perform work from 20:00 to 6:00;
- 2) an agreement by which an employee who is 15–17 years of age and not subject to the obligation to attend school undertakes to perform work from 22:00 to 6:00.

Exemptions to the aforementioned shall be applied if an employee who is a minor does light work in the field of culture, art, sports or advertising under the supervision of an adult from 20:00 to 24:00 (subsection 49 (2) of the ECA).

If an employer has exceeded the limit of summarised working time concerning a minor (section 121 of the ECA), has not enabled daily rest time (section 126 of the ECA), or has not adhered to restriction on requiring a minor to work (section 124 of the ECA), the Labour Inspectorate has the right to impose a fine of up to 1,300 euros to the employer. Additionally, the Labour Inspectorate

issues precepts on the basis of the Administrative Procedure Act, the performance of which the Labour Inspectorate can ensure by imposing penalty payments.

### Statistics

Statistics on violations determined by the Labour Inspectorate have been detailed in Table 1 and Table 2 (see subsection 1 of Article 7 below).

## ***Subsection 7 – Paid annual holiday***

### Legal regulation

In 2014, Estonia submitted information to the Committee concerning annual holiday of minors. Since the submission of the information, no changes have been made to the regulation concerning annual holiday.

Pursuant to section 56 of the ECA, it is presumed that the annual holiday of an employee who is a minor is 35 calendar days (minor's annual holiday), unless the employee and the employer have agreed on a longer annual holiday or unless otherwise provided by law. Subsection 66 (1) of the ECA stipulates that holiday pay for the part exceeding the 28 calendar days of annual holiday of a minor shall be compensated to the extent of up to seven calendar days from the state budget through the budget of the area of government of the Ministry of Social Affairs.

The aim of an extended annual holiday is to ensure the social development and acquisition of education of a minor.

Pursuant to subsection 68 (2) of the ECA, in addition to time worked, time of temporary incapacity for work shall also be included in the time serving as the basis for the right to grant annual holiday. Pursuant to subsection 69 (6) of the ECA, an employee has the right to interrupt, postpone or terminate prematurely a holiday due to significant reasons arising from the person of the employee, in particular due to temporary incapacity for work, pregnancy and maternity leave or participation in a strike. The employee has the right to demand the unused part of the holiday immediately after the impediment to using the holiday ceases to exist or, by agreement of the parties, at another time. The employee shall be obligated to notify the employer of an impediment to using the holiday at first opportunity. The aforementioned regulation also applies in the case of incapacity for work that has occurred during the holiday of a minor.

### Statistics

**Table 4.** Compensation for additional holiday days during the year, 2014–2017

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Total number of recipients	308	210	121	166
Total number of days used	566	444	411	481
Expenses (in euro)	5,516	5,809	4,295	6,479

*Source: Social Insurance Board*

## ***Subsection 8 – Prohibition of night work***

### Legal regulation

Provisions regarding night work of minors were amended in 2017. Pursuant to subsection 49 (1) of the ECA the following agreements are void:

- 1) an agreement by which an employee who is subject to the obligation to attend school undertakes to perform work from 20:00 to 6:00;
- 2) an agreement by which an employee who is 15–17 years of age and not subject to the obligation to attend school undertakes to perform work from 22:00 to 6:00.

Exemptions to the aforementioned shall be applied if an employee who is a minor does light work in the field of culture, art, sports or advertising under the supervision of an adult from 20:00 to 24:00 (subsection 49 (2) of the ECA).

An agreement by which an employee subject to the obligation to attend school undertakes to perform work immediately before the start of a school day is void (subsection 49 (3) of the ECA). If an employer has failed to adhere to the restriction on requiring minor to work, the Labour Inspectorate has the right to impose a fine of up to 1,300 euros to the employer (section 124 of the ECA).

### Statistics

Failure to adhere to the restriction on requiring a minor to work – the number of violations determined has been included in Table 1. Statistics of misdemeanour procedures down below (section 124 of the ECA):

Misdemeanour procedures of a natural person:

2014 – 1 expedited procedure, a fine of 140 euros

2015 – 1 expedited procedure, a fine of 120 euros

2017 – 1 expedited procedure, a fine of 300 euros

Misdemeanour procedures of a legal person:

2016 – 1 general procedure, a fine of 500 euros

2017 – 1 misdemeanour procedure, which was terminated due to expiry.



## ***Subsection 9 – Regular medical examinations***

### Legal regulation

In order to protect the health of minors, it is stipulated in the Employment Contracts Act that an employer shall not enter into an employment contract with a minor or allow a minor to work if the work:

- 1) is beyond the minor's physical or psychological capacity;
- 2) is likely to harm the moral development of the minor;
- 3) involves risks which the minor cannot recognise or avoid owing to lack of experience or training;
- 4) is likely to hinder the minor's social development or the acquisition of his or her education;
- 5) is likely to harm the minor's health due to the nature of the work or the working environment.

A more detailed description of works that minors are not allowed to perform is stipulated in Regulation No. 94 of the Government of the Republic of Estonia of 11 June 2009 'List of occupational hazards and work prohibited to minors'. The regulation provides a list of works that minors are not allowed to perform and a list of hazards that can be harmful for a minor's health in the case of contact.

As of 2017, an employer may not allow a minor of 7–14 years of age to work before ten working days have passed since the entry of the minor in the employment register provided for in the Taxation Act. When entering a minor of 7–14 years of age in the employment register, the employer shall enter in the register information about the consent of a legal representative of the minor, the working conditions of the minor, including the minor's place of work and duties and whether the minor is subject to the obligation to attend school. After the making of the register entry of the employer, the labour inspector is required to verify that the work is not prohibited for the minor and the minor's working conditions are in accordance with the requirements provided by law and the minor wishes to do the work.

Additionally, the health risks of an employee who is a minor shall be assessed prior to the minor starting work and in cases where a significant change has been introduced to the work organisation. When assessing risks, the following should be paid attention to, first and foremost:

- 1) design and furnishing of the workspace and rooms;
- 2) impact of hazards in the working environment to the health of an employee who is a minor;
- 3) suitability of tools and their use for an employee who is a minor;
- 4) suitability of work organisation for an employee who is a minor;
- 5) providing instructions and training for an employee who is a minor.

### Measures for implementation

One of the measures for the protection of minors' health is to conduct medical examination. Regulation No. 74 the Minister of Social Affairs of 24 April 2003 'Procedure for medical examination of employees' stipulates general principles for medical examination of employees whose health may be affected by working environment hazards or work practices. The Regulation

applies to all employees, including employees who are minors, and who are not subject by law to a special medical examination. When conducting a medical examination, the occupational health doctor shall evaluate the state of health of the employee, the suitability of the working environment or work organisation to the employee, taking into account the results of the risk assessment of the working environment, which shall indicate the working environment hazards that the employee comes into contact at their workplace and which may cause a work-related illness for the employee, and the impact and duration of the hazards to the employee during one day. Potential work-related illnesses of an employee are determined in the course of a medical examination. The occupational health doctor, having reviewed the supporting documents of the medical examination, the working environment and work organisation of the employee at the workplace, shall prescribe the necessary additional medical examinations, involving various specialists, if necessary. The occupational health doctor shall enter the results of the additional medical examinations to the employee's medical record, will provide an evaluation of the employee's state of health and decide upon the suitability of the working environment or work organisation to the employee. The occupational health doctor will inform the employee of the results of their additional medical examinations and the decision of their medical examination. The occupational health doctor shall issue a medical examination result to the employer, in which they will, if necessary, include proposals for making changes in the working environment or work organisation.

Pursuant to the Occupational Health and Safety Act, the occupational health doctor shall conduct employees' medical examinations at the employer's expense and during working hours. Data concerning the status of health of employees is confidential and shall be stored in protected databases.

The Committee has previously noted in its conclusions that although the time period between the medical examinations of minors has been reduced from three to two years, this period is still too long for employees under the age of 18 years. To this end, an amendment of the Occupational Health and Safety Act shall be enforced in Estonia as of January 2019; this amendment stipulates that the medical examination of an employee who is a minor shall be conducted at least once a year.

#### Statistics

There is no statistical data concerning the medical examinations of minors.

## ***Subsection 10 – Special protection against physical and moral dangers***

As a more general remark, we would like to point out that Estonia has criminalized all types of sexual exploitation and sexual violence and these are covered by different relevant articles in our Penal Code (please see them below). Also, please note that regarding § 147 of the Penal Code, children under the age of 10 years old are considered unable to consent to any sexual activities, so even if the child gave his/her consent or even initiated, all sexual activities (not only intercourse) are considered and prosecuted as rape if one party involved was younger than 10 years old. Also, in Estonia, all sexual crimes are gender neutral, so it does not matter whether these acts involved a man/boy or a woman/girl; two (or more) men/boys; or two (or more) women/girls. The following articles of the Penal Code cover sexual exploitation, sexual abuse, child pornography, trafficking and other forms of sexual violence/sexual crimes: § 133, § 133<sup>1</sup>, § 133<sup>2</sup>, § 133<sup>3</sup>, § 141, § 143, § 143<sup>2</sup>, § 144, § 145, § 145<sup>1</sup>, § 147, § 153<sup>1</sup>, § 175, § 175<sup>1</sup>, § 178, § 178<sup>1</sup> and § 179 (please see the texts of the relevant provisions below).

As a more specific remark regarding not being in conformity with Article 7 paragraph 10 of the Charter, we would like to give a more detailed explanation. Firstly, we would like to stress that Estonia has criminalized all child pornography offences established in UN Convention on the Rights of the Child's second facultative protocol (art 2-3). Offences are covered with § 175, § 178 and § 179 of the Penal Code. It is also important to mark the criminalization of grooming in § 178<sup>1</sup> of the Penal Code. Articles 133, 145<sup>1</sup> and 175<sup>1</sup> of the Penal Code are relevant as well. Some of these provisions are new and some got amended in 2013 and later.

According to Estonian Penal law, the offences of child pornography are substantially wider and more criminalizing than facultative protocol demands. For example, in Estonia there is no need to prove that pornographic product/material featuring a child was produced for sexual purpose; actually non-existent children are involved/covered etc. In all child pornography offences, age limit of the protected child is always 18 years.

Facultative protocol doesn't demand states to criminalize offences involving children in erotic performance or work (i.e. child erotica). Yet, at the same time, Estonia wishes to protect a wider group/more children and because of that, Estonia has made a wider approach than many other countries.

Unfortunately, a misunderstanding has occurred regarding child erotica, which we would like to explain in order to clear up this misunderstanding.

Firstly, please note that § 177 of the Penal Code is not valid anymore. It has been repealed since 14.04.2012.

Current wording of the § 178 (1) of the Penal Code states that *manufacture, acquisition or storing, handing over, displaying or making available to another person in any other manner of pictures, writings or other works or reproductions of works depicting a person of less than eighteen years of age in a pornographic situation, or a person of less than fourteen years of age in a pornographic or erotic situation, is punishable by a pecuniary punishment or up to three years' imprisonment.*

But this does not mean that children 14-18 years of age can be used in erotic materials. This means that we do not want to criminalize the situations where children 14-18 years of age take their own pictures or ask their friend to take their picture where they are, for example, in a provocative pose. In Estonia, erotic materials do not even have to consist any nudity, it can just be a sensual or a provocative pose. We feel that this kind of interaction between age group 14-18 can be a part of their sexual development and should not be punished. So, we do not want to criminalize 100% voluntary actions which do not consist any outside influence.

But if there is some sort of influence to the child between 14-18 years of age, then child erotica is criminalised and then the age limit is 18 years of age for all the acts. Art 175 of the Penal Code clearly states that:

**§ 175. Human trafficking in order to take advantage of minors**

*(1) Influencing of a person of less than eighteen years of age in order to cause him or her to commence or continue commission of a criminal offence, begging, engagement in prostitution or working under unusual conditions or to marry against his or her will or to appear as a model or actor in a pornographic or erotic performance or work, if it does not contain the necessary elements of an offence provided for in § 133 of this Code, and aiding a person of less than eighteen years of age in another manner in the activities specified in this section, is punishable by two to ten years' imprisonment.*

If violence, force, threats etc are involved then § 133 of the Penal Code applies also in the case of child erotica and once again, the age limit is 18 years of age.

Art 133 of the Penal Code clearly states that:

**§ 133. Trafficking in human beings**

*(1) Placing a person in a situation where he or she is forced to marry, work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, and keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person, is punishable by one to seven years' imprisonment. [RT I, 26.06.2017, 69 - entry into force 06.07.2017]*

*(2) The same act if:*

- 1) committed against two or more persons;*
- 2) committed against a person of less than eighteen years of age;*
- 3) committed against a person in a helpless situation;*
- 4) committed in a torturous or cruel manner;*
- 5) serious health damage is caused thereby;*
- 6) danger to life is caused thereby;*
- 7) committed by a group;*

*[RT I, 12.07.2014, 1 - entry into force 01.01.2015]*

- 8) committed by taking advantage of official position,*
- 9) serious consequences are caused thereby;*

*10) committed by a person who has previously committed a criminal offence provided for in this section or §§ 1331, 1332, 1333 or 175;  
is punishable by three to fifteen years' imprisonment.  
[RT I, 13.12.2013, 5 - entry into force 23.12.2013]*

With the previously named steps Estonia has done more for protecting children than facultative protocol demands. And we can conclude that with any type of influence, the age limit of using children in erotic materials is 18 years of age (in other words: if the child is under 18 years of age, these actions are criminalised).

When materials contain full nudity, it is considered to be a child-pornographic material, not a child-erotic material.

Full text of Estonian Penal Code in English:

<https://www.riigiteataja.ee/en/eli/509072018004/consolide>

The relevant provisions in the **Penal Code**:

### **§ 141. Rape**

(1) Sexual intercourse or commission of another act of sexual nature with a person against his or her will by using force or taking advantage of a situation in which the person is not capable of initiating resistance or comprehending the situation

is punishable by one to five years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act:

1) if committed against a person of less than eighteen years of age;

2) if committed by a group;

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

3) serious damage is thereby caused to the health of the victim;

4) it causes the death of the victim;

5) it leads the victim to suicide or a suicide attempt; or

6) it was committed by a person who has previously committed a criminal offence provided in this Division,

is punishable by six to fifteen years' imprisonment.

[RT I 2006, 31, 233 - entry into force 16.07.2006]

[RT I, 25.09.2015, 6 - entry into force 23.09.2015 – To declare the sanction of subsection 141 (2) of the Penal Code to be in conflict with the Constitution and repealed to the extent that it prescribes 6 years' imprisonment as minimum term of punishment for commission of an act of sexual nature without using force with a child younger than ten years of age.

(3) The same act, if committed by a legal person,  
is punishable by a pecuniary punishment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(4) For criminal offence provided for in clause (2) 1) of this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of §

83<sup>2</sup> of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

### **§ 143. Compelling person to engage in sexual intercourse or other act of sexual nature**

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1) Sexual intercourse or commission of another act of sexual nature with a person against his or her will by taking advantage of the dependency of the victim on the offender but without using force or outside a situation where the person was not capable of initiating resistance or comprehending the situation as provided for in § 141 of this Code, is punishable by up to three years' imprisonment.

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by up to five years' imprisonment.

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

### **§ 143<sup>2</sup>. Sexual intercourse or other act of sexual nature using influence**

(1) Engagement in sexual intercourse or commission of another act of sexual nature by an adult person with a person of less than eighteen years of age by taking advantage of the dependency of the victim on the offender or with abuse of influence or confidence but without using force or outside a situation where the person was not capable of initiating resistance or comprehending the situation as provided for in § 141 of this Code, is punishable by two to eight years' imprisonment.

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by three to eight years' imprisonment.

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

### **§ 144. Sexual intercourse with descendant**

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1) Sexual intercourse or commission of another act of sexual nature by a parent, person holding parental rights or grandparent with a child or grandchild is punishable by two to eight years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by three to eight years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

### **§ 145. Sexual intercourse or other act of sexual nature with child**

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1) Engagement in sexual intercourse or commission of another act of sexual nature by an adult person with a person of less than fourteen years of age is punishable by up to five years' imprisonment.

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by two to eight years' imprisonment.

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

### **§ 145<sup>1</sup>. Buying sex from minors**

(1) Engaging in sexual intercourse or committing another act of sexual nature with a person of less than eighteen years of age for monetary payment or any other benefit is punishable by up to three years' imprisonment.

(2) An act specified in subsection (1) of this section, if committed against a person of less than fourteen years of age, is punishable by up to five years' imprisonment.

(3) The act specified in subsections (1) and (2) of this section, if it was committed by a person who has previously committed a criminal offence provided for in this Division, is punishable by two to eight years' imprisonment.

(4) An act specified in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(5) For criminal offence provided for in subsections (2) and (3) of this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

#### **§ 147. Inability of person of less than ten years to comprehend**

Within the meaning of the offences provided for in this Division, a person is deemed to be incapable to comprehend if he or she is less than ten years of age.

#### **§ 153<sup>1</sup>. Sexual harassment**

(1) An intentional physical act of sexual nature against the will of another person committed against him or her with degrading objectives or consequences is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2000 euros.

[RT I, 26.06.2017, 69 - entry into force 06.07.2017]

#### **§ 133. Trafficking in human beings**

(1) Placing a person in a situation where he or she is forced to marry, work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, and keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person, is punishable by one to seven years' imprisonment.

[RT I, 26.06.2017, 69 - entry into force 06.07.2017]

(2) The same act if:

- 1) committed against two or more persons;
- 2) committed against a person of less than eighteen years of age;
- 3) committed against a person in a helpless situation;
- 4) committed in a torturous or cruel manner;
- 5) serious health damage is caused thereby;
- 6) danger to life is caused thereby;
- 7) committed by a group;

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]



8) committed by taking advantage of official position,  
9) serious consequences are caused thereby;  
10) committed by a person who has previously committed a criminal offence provided for in this section or §§ 133<sup>1</sup>, 133<sup>2</sup>, 133<sup>3</sup> or 175;  
is punishable by three to fifteen years' imprisonment.  
[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.  
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.

(5) For the purposes of this section, vulnerable situation is a situation where a person lacks an actual or acceptable opportunity not to commit any of the acts specified in subsection (1) of this section.  
[RT I, 04.04.2012, 1 - entry into force 14.04.2012]

### **§ 133<sup>1</sup>. Support to human trafficking**

(1) Transportation, delivery, escorting, acceptance, concealment or accommodation without prior authorisation of a person placed in a situation specified in subsection 133 (1) of this Code, buying sex from him or her or aiding, without prior authorisation, his or her forced acts in any other way, is punishable by up to five years' imprisonment.  
[RT I, 26.06.2017, 69 - entry into force 06.07.2017]

(2) The same act if:  
1) committed against two or more persons;  
2) committed against a person of less than eighteen years of age;  
3) committed against a person in a helpless situation;  
4) committed by taking advantage of official position,  
is punishable by two to ten years' imprisonment.

(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.  
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.  
[RT I, 04.04.2012, 1 - entry into force 14.04.2012]

### **§ 133<sup>2</sup>. Pimping**

(1) Organisation of a meeting of a person engaged in prostitution with a client, owning, managing of a brothel, aiding of prostitution or renting of premises for keeping a brothel, or influencing of a person to cause him or her to commence or continue prostitution, if the act does not contain the necessary elements of an offence provided for §§ 133 or 133<sup>1</sup> of this Code, is punishable by a pecuniary punishment or up to five years' imprisonment.

(2) The same act if:

1) committed by a person who has previously committed an offence provided for in this section or §§ 133, 133<sup>1</sup>, 133<sup>3</sup> or 175;  
2) committed for the purpose of large proprietary gain,  
is punishable by one to five years' imprisonment.

(3) The same act, if committed by a legal person,  
is punishable by a pecuniary punishment.

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.

(5) For the purposes of this section, a brothel denotes any premises or limited area where a third party mediates the engagement of two or more people in prostitution or aids engagement of two or more people in prostitution.

[RT I, 04.04.2012, 1 - entry into force 14.04.2012]

### **§ 133<sup>3</sup>. Aiding prostitution**

(1) Knowing aiding of prostitution if the act does not contain the necessary elements of an offence provided for §§ 133, 133<sup>1</sup> or 133<sup>2</sup> of this Code,  
is punishable by a pecuniary punishment or up to three years' imprisonment.

(2) The same act, if committed by a legal person,  
is punishable by a pecuniary punishment.

[RT I, 04.04.2012, 1 - entry into force 14.04.2012]

### **§ 175. Human trafficking in order to take advantage of minors**

(1) Influencing of a person of less than eighteen years of age in order to cause him or her to commence or continue commission of a criminal offence, begging, engagement in prostitution or working under unusual conditions or to marry against his or her will or to appear as a model or actor in a pornographic or erotic performance or work, if it does not contain the necessary elements of an offence provided for in § 133 of this Code, and aiding a person of less than eighteen years of age in another manner in the activities specified in this section,  
is punishable by two to ten years' imprisonment.

[RT I, 26.06.2017, 69 - entry into force 06.07.2017]

(1<sup>1</sup>) The same act if committed by a person who has previously committed a criminal offence provided for in this section or §§ 133-133<sup>3</sup>, § 175<sup>1</sup> or §§ 178-179, is punishable by three to ten years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

(3) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

### **§ 175<sup>1</sup>. Requesting access to child pornography and watching thereof**

(1) Knowingly requesting access to child pornography or knowingly watching a pornographic performance involving a person younger than eighteen years of age or of a pornographic or erotic performance involving a person younger than fourteen years of age is punishable by a pecuniary punishment or up to two years' imprisonment.

[RT I, 23.12.2014, 14 - entry into force 01.01.2015]

(2) The same act, if committed by a person who has previously committed a criminal offence provided for in this section or §§ 175 or 178-179, is punishable by up to three years' imprisonment.

[RT I, 23.12.2014, 14 - entry into force 01.01.2015]

(3) The same act, if committed by a legal entity, is punishable by a pecuniary punishment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

### **§ 178. Manufacture of works involving child pornography or making child pornography available**

(1) Manufacture, acquisition or storing, handing over, displaying or making available to another person in any other manner of pictures, writings or other works or reproductions of works depicting a person of less than eighteen years of age in a pornographic situation, or a person of less than fourteen years of age in a pornographic or erotic situation, is punishable by a pecuniary punishment or up to three years' imprisonment.

(1<sup>1</sup>) The same act if committed by a person who has previously committed a criminal offence provided for in this section or §§ 175, 175<sup>1</sup>, 178<sup>1</sup> or 179 is punishable by one to three years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(3) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83<sup>2</sup> of this Code.

[RT I, 31.12.2016, 2 - entry into force 10.01.2017]

### **§ 178<sup>1</sup>. Agreement of sexual purpose for meeting with child**

(1) Making a proposal for meeting a person of less than eighteen years of age who was not capable of comprehending the situation, or a person of less than fourteen years of age, or concluding an agreement to meet him or her, and performance of an act preparing the meeting, if the aim of the meeting is to commit an offence of sexual nature provided for in §§ 133, 133<sup>1</sup>, 141-1451, 175, 175<sup>1</sup>, 178 or 179 of this Code with respect to the specified person, is punishable by a pecuniary punishment or up to three years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1<sup>1</sup>) The same act if committed by a person who has previously committed a criminal offence provided for in this section or §§ 175, 175<sup>1</sup>, 178 or 179 is punishable by one to three years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act, if committed by a legal entity, is punishable by a pecuniary punishment.

[RT I 2010, 10, 44 - entry into force 15.03.2010]

### **§ 179. Sexual enticement of children**

(1) Handing over, displaying or making otherwise pornographic works or reproductions thereof knowingly available to a person of less than fourteen years of age, or showing sexual abuse to such person or engaging in sexual intercourse in the presence of such person or knowingly sexually enticing such person in any other manner

is punishable by a pecuniary punishment or up to three years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(1<sup>1</sup>) The same act if committed by a person who has previously committed a criminal offence provided for in this section or §§ 175, 175<sup>1</sup>, 178 or 178<sup>1</sup>

is punishable by one to three years' imprisonment.

[RT I, 13.12.2013, 5 - entry into force 23.12.2013]

(2) The same act, if committed by a legal entity, is punishable by a pecuniary punishment.

## Article 8 – The right of employed women to protection of maternity

### ***Subsection 1 – Maternity leave***

#### Legal regulation, measures for implementation

In 2014, Estonia submitted information to the Committee regarding regulation concerning pregnancy and maternity leave. Since the submission of the information, no changes have been made to the regulation concerning pregnancy and maternity leave. The terms and conditions of pregnancy and maternity leave and the payment of maternity benefit continue to be stipulated on the basis of the Health Insurance Act, the Employment Contracts Act and the Civil Service Act.

On 2 March 2017, the government approved amendments to the parental leave and benefits system. Since the amendments are extensive and require multi-party agreements, as well as the development of the information technology of the Social Insurance Board and other parties, it was decided to amend the law in two parts.

The Parliament passed the amendments of the first stage on 6 December 2017. With the amendments, fathers received the right for a 30-day individual leave and benefit. The father's right to parental benefit is independent of their previous employment relationship or contractual form of employment, and thus, all fathers can use the benefit either simultaneously with the mother or separately. The individual right of fathers will come into force on 1 July 2020, and at the same time, an amendment that allows the parental benefit to be suspended and continued, according to the wishes of the parent, until the child reaches the age of 3 years, will also come into effect.

The amendments of the second stage will be submitted to the Parliament for second reading on 10 October 2018, and the amendments will most likely be adopted in the fall of 2018. The amendments to the law also include the renaming of pregnancy and maternity leave as maternity leave and the introduction of changes to the terms and conditions. Compared to pregnancy and maternity leave, the period of maternity leave will be changed from 140 to 100 days, and parents will have a longer paid parental leave period (current child care leave). Whereas the pregnancy and maternity leave was reimbursed as maternity benefit from the Estonian Health Insurance Fund budget, the maternity leave will be paid as mother's parental benefit through the Social Insurance Board from the state budget.

In addition to changing the conditions of the pregnancy and maternity leave, the draft will also amend the conditions for child leave and adoptive parent leave, and the conditions and compensation for parental leave will be made more flexible. The amendments of the second stage (incl. amendments of the regulation of pregnancy and maternity leave) will come into force on 1 April 2022.

#### Statistics

**Table 1.** Reasons for inactivity from the age of 16 to retirement age, 2014–2017

	2014	2015	2016	2017

Total of inactive persons (in thousands)	187.0	174.0	169.1	156.7
... incl. pregnancy, maternity or child care leave (in thousands)	26.0	24.5	29.2	26.3
... incl. pregnancy, maternity or child care leave, percentage	13.9	14.1	17.3	16.8
... incl. taking care of children or other family members (in thousands)	14.6	14.4	12.8	11.0
... incl. taking care of children or other family members, percentage	7.8	8.3	7.6	7.0

Source: Statistics Estonia, Estonian Labour Force Survey

**Table 2.** Pregnancy and maternity benefit 2014–2017

	2014	2015	2016	2017
Number of certificates for maternity leave	9,969	10,383	10,602	10,530
Number of days	1,385,026	1,443,956	1,477,337	1,467,805
Total benefits paid (in thousands of euros)	37,890	42,264	46,695	49,224
Average daily income (in euro)	27.4	29.3	31.6	33.5
Average duration of leave (in days)	138.9	139.1	139.3	139.4

Source: Health Insurance Fund

**Table 3.** Use of paternity leave, 2014–2017 (as of the end of the year)

	2014	2015	2016	2017
Number of applications	5,701	6,460	6,924	7,220
Number of days compensated	54,210	61,681	66,347	69,854
Expenditure of paternity leave benefits, in euro	3,492,300	4,056,800	4,600,400	5,019,800
Average daily income, in euro	64.42	65.77	69.34	71.86

Source: Social Insurance Board

**Table 4.** Adoptive parent leave (section 61 of the ECA) and adoption benefit (adoptive parent of a child under the age of 10 years), 2014–2017

	2014	2015	2016	2017
Number of adoption certificates	29	19	12	22
Number of days of leave	1,818	1,212	840	1,456
Total expenditure	63,861	52,292	40,709	92,916
Average income per day (in euro)	35.1	43.1	48.5	63.8

Source: Health Insurance Fund

No data is collected regarding the use of adoptive parent leave (section 62 of the ECA). The use of the child care leave has been researched within the framework of the Statistics Estonia's 2010 labour force survey module 'Reconciliation of work and family life'.

**Table 5.** Number of parents of children under the age of 8 years who have used / have not used child care leave after the birth of their youngest child, 2010

	Total	Used child care leave	Did not use child care leave
<b>Number of parents, in thousands</b>	176.4	91.8	84.6
<b>Men</b>	79.4	4.3	75.1
<b>Women</b>	97	87.4	9.6

<sup>1</sup> Parents of children under the age of 8 years include those 15–64-year-olds whose households include their own or their spouse's / registered partner's children under the age of 8 years.

Source: Statistics Estonia, Estonian labour force survey module 'Reconciliation of work and family life'

**Table 6.** Granting parental benefits<sup>1</sup> by type of benefit and gender, the average amount of benefit granted, 2014–2017

Year	2014	2015	2016	2017
<b>Total of persons who have been granted parental benefits</b>	14,366	14,505	14,799	14,428
men, %	9.0	8.9	9.3	9.9
women, %	91.0	91.1	90.7	90.1
<b>Parental benefits by type</b>				
Parental benefit as 100% of a calendar month's income	9,077	9,262	9,815	9,715

men, %	11.4	11.6	11.3	11.9
women, %	88.6	88.4	88.7	88.1
Parental benefit assigned in the maximum amount	652	627	617	637
men, %	26.8	24.1	28.5	30.1
women, %	73.2	75.9	71.5	69.9
Parental benefit as minimum monthly wage	2,479	2,693	2,604	2,515
men, %	1.7	1.3	1.7	1.9
women, %	98.3	98.7	98.3	98.1
Parental benefit at the parental benefit rate	2,158	1,923	1,763	1,561
men, %	1.9	1.4	2.6	2.1
women, %	98.1	98.6	97.4	97.9
Annual average of parental benefit granted (in euro <sup>3</sup> )	858.30	928.13	1,040.15	1,123.50
men	1,366.12	1,474.31	1,589.09	1,713.74
women	808.12	875.04	983.83	1,058.77

<sup>1</sup> First instances of granting benefit per child during the year.

Source: Social Insurance Board

**Table 7.** The use of child leave (section 63 of the ECA), 2014–2017

	2014	2015	2016	2017
Number of recipients over a year	36,939	41,597	42,920	45,807
Total number of days used	128,410	148,050	149,694	160,083
Expenses (in euro <sup>1</sup> )	2,129,000	2,698,200	2,975,300	3,485,800

<sup>1</sup>According to section 63 of the ECA, the mother or father has the right to receive child leave in each calendar year: three working days if they have one or two children under the age of 14; six working days if they have at least three children under the age of 14 or at least one child under the age of three.

Source: Social Insurance Board

There is no data concerning the use of unpaid child leave (section 64 of the ECA).



## ***Subsection 2 – The unlawfulness of dismissal a woman from work during their maternity leave***

### Legal regulation

In 2014, Estonia submitted information to the Committee concerning the unlawfulness of dismissal of women from work during their maternity leave. Since the submission of the information, no changes have been made to the regulation.

Subsection 109 (2) of the ECA is still in force, according to which, in case that the court or labour dispute committee determines that the cancellation of the employment contract of a pregnant employee or an employee who has the right to pregnancy and maternity leave is void and reinstatement of the employee is not possible, the employer shall pay the employee compensation in the amount of six months' average wages of the employee. The court or labour dispute committee may change the amount of the compensation, considering the circumstances of the cancellation of the employment contract and the interests of both parties. The Committee has previously noted that, pursuant to the Law of Obligations Act, it is also possible to claim compensation for additional damage.

The Committee asked that samples of case law be provided concerning granting compensation when terminating an employment contract with an employee who is pregnant or currently on maternity leave. The example provided is Decision No. 2-14-60715 of the Harju County Court (16 October 2015).

Plaintiff: A woman

Content of the statement of claim: The plaintiff worked for the respondent as a barmaid on the basis of an employment contract. Once the plaintiff had notified the employer of her pregnancy, the employer's attitude worsened, as did the working conditions. Eventually the respondent cancelled the plaintiff's employment contract, claiming that unsatisfactory performance during the probationary period was the reason for this. There is no cause of action for cancellation of the employment contract; therefore, the cancellation is void and the plaintiff claims compensation in the amount of six months' wages – 6 × 435 euros. The respondent cancelled the employment contract due to the plaintiff's pregnancy, i.e. discriminated the plaintiff involving the aforementioned cause of action and the plaintiff is claiming for compensation of non-patrimonial damage in the amount of 2,000 euros.

The court determined that the action can be partially granted. The court was of the opinion that the plaintiff's claim in the amount of six months' wages (6 × 435 euros = 2,610 euros) was justified. The legal basis of the claim is the first sentence of subsection 109 (2) of the ECA, which sets out, inter alia, that if the court terminates an employment contract in the case specified in subsection 107(2) of this Act with an employee who is pregnant, the employer shall pay the employee compensation in the amount of six months' average wages of the employee. The court may change the amount of the compensation, pursuant to subsection 109 (2) of the ECA, taking into account the circumstances of the cancellation of the employment contract and the interests of both parties. The court was of the opinion that no exceptional circumstances occurred in this case that would have led to granting

compensation differently from the amount of six months' average wages of the employee as specified in subsection 109 (2) of the ECA.

Additionally, the court also found that the plaintiff had been discriminated due to her pregnancy and therefore the payment of compensation in the sum of 1,695 euros for non-patrimonial damage was justified. The legal basis for the claim was subsection 13 (2) of the Gender Equality Act, a person who has been violated due to discrimination, may demand that, in addition to as provided for in subsection (1) of this section, a reasonable amount of money be paid to the party as compensation for non-patrimonial damage caused by the violation.

### Statistics

**Table 5** Requirements for contesting the cancellation of an employment contract (a pregnant woman with the right to pregnancy and maternity leave, a person using the child care leave/parental leave according to section 93 of the ECA)

2014	2015	2016	2017
5	7	5	4

Source: Labour Inspectorate

### ***Subsection 3 – Rest breaks for employees who are nursing***

#### Legal regulation

In 2014, Estonia submitted information to the Committee concerning the provision of time off for mothers who are nursing. Since the submission of the information, no changes have been made to the relevant regulation.

Pursuant to the Occupational Health and Safety Act (OHSA), a nursing mother shall have the right to additional breaks for nursing until the child is a year and a half old. An additional break shall be granted every three hours for no less than 30 minutes at a time. A break granted for nursing two or more up to one and a half year old children shall last for at least one hour. Nursing breaks shall be included in the working time and average wages shall be paid for such breaks. The employer shall receive compensation for the payment of average wages from the state budget.

OHSA applies, similarly to the private sector, to officials and employees in public service as well (subsection 1 (1) of the OHSA ). The Public Service Act does not set out additional guarantees for nursing mothers, i.e. the same regulation applies as the one that applies to employees working on the basis of an employment contract. Guarantees to pregnant and nursing mothers are set out by section 10 of the OHSA and Regulation No. 95 of 2009 of the Government of the Republic enforced on the basis thereof.<sup>3</sup> The aforementioned legal acts have regulated both the granting of additional breaks as well as areas of work that are dangerous to women.

#### Statistics

**Table 6.** Compensation for paid nursing breaks from the state budget, 2014–2017

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Number of recipients over a year	11	11	10	16
Number of hours compensated	1,268	1,755	1,062	2,447
Expenses (in euro)	9,825	12,541	6,676	10,894

*Source: Social Insurance Board*

<sup>3</sup> <https://www.riigiteataja.ee/akt/13290413>

## ***Subsection 4 – Regulation of night work***

### Legal regulation

In 2014, Estonia submitted information to the Committee concerning the prohibition of night work. Since the submission of the information, no changes have been made to the regulation concerning night work. The field is regulated by section 18 of the ECA and Regulation No. 95 of 11 June 2009 ‘Occupational health and safety requirements for work performed by pregnant women and women who are breastfeeding’<sup>1</sup>, according to which a pregnant employee and an employee who has 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 employer cannot provide the employee with work corresponding to his or her state of health, the employee may temporarily refuse to perform the duties.

### Statistics

No relevant data is collected.

## ***Subsection 5 – The prohibition of work that is dangerous, unhealthy or arduous in nature***

### Legal regulation

The legal framework has not changed when compared to the previous reporting period. The field is regulated by Regulation No. 95 of the Government of the Republic of Estonia of 11 June 2009 'Occupational health and safety requirements for work performed by pregnant women and women who are breastfeeding' and Regulation No. 26 of the Minister of Social Affairs of 27 February of 2001 'Occupational health and safety requirements for manual handling of loads'. Both regulations apply to the work of employees and officials, incl. to women working in the public sector.

### Statistics

No relevant data is collected.

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

### ***Housing for families***

#### Measures and statistics

Main support measures related to the field of housing and results of the implementation thereof during 2014–2017 have been described below.

#### ***Housing loan surety for private persons***

Target groups of national loan sureties were young families, young specialists, tenants living in restituted dwellings, veterans of the Defence League or the Defence Forces, and – as of 2016 – acquirers of energy-efficient dwellings and people reconstructing their dwellings as energy-efficient.

- During 2014–2017, 10,236 loan surety agreements were signed in the total volume of 94,199,062 euros.

Target group	Total of sureties, pcs	Total amount, €
Young family	4,394	39,297,718
Young specialist	5,399	46,421,029
Tenant living in a restituted dwelling	1	5,600
Veteran	57	435,410
Acquirer/reconstructor of an energy-efficient dwelling	385	8,039,306
Total	10,236	94,199,062

#### ***Apartment building loan surety for apartment associations***

The target group of national loan sureties was apartment associations. The support was meant for apartment associations that wanted to get a loan from a bank in order to renovate an apartment building, but whose risk the bank evaluated to be higher than average or who wished to use KredEx surety in order to insure the risk of payment difficulties.

- During the period of 2014–2017, sureties for apartment building loans were issued on 300 instances, the total volume of the loan sureties was 22,737,854 euros, the total loan amount was 35,602,273 euros.

#### ***Apartment building reconstruction grant for apartment associations***

The grant was meant for apartment associations and local governments. The grant was used mainly for complete reconstruction of apartment buildings, with the goal of making the buildings more energy-efficient and achieve energy savings. The calculated average energy savings achieved with the reconstructed works was 64%.

- During the period of 2015–2017, a total of 81.4 million euros was invested into 259 project of reconstructing apartment buildings. As of 2017, the total expenditure was made up of 50.2 million euros (60.77%) of benefit recipients’ costs, and 31.2 million euros (39.23%) of support.
- The number of households (apartments) with an improved energy consumption class was 3,865 apartments, the reconstructed area was 267,275 m<sup>2</sup>, and the living conditions of nearly 8,500 people were improved.

Start of the programme	spring of 2015
Number of renovated apartment buildings	259
Number of apartments	3,865
Closed net area of apartments	267,275 m <sup>2</sup>
Average calculated energy savings	64%

#### ***Small residential building reconstruction grant for owners of detached houses***

The aim of the measure was to support renovation of detached houses and increasing the energy-efficiency thereof.

- During the period of 2016–2017, the total support granted to 313 owners of detached houses was 1,937,146 euros; the average support amount was 6,210 euros.

#### ***Heating system updating grant for owners of detached houses***

The grant was meant for natural persons who are owners of detached houses and wish to replace boiler equipment that uses liquid fuel with heating equipment that uses renewable energy sources.

- During the period of 2014–2017, the total support granted to 509 owners of detached houses was 1,756,557 euros; the average support amount was 3,451 euros.

#### ***Home grant for improving living conditions of families with many children***

This measure has been applied, as of 2014, pursuant to the activities in the ‘Development Plan of Children and Families 2012–2020’, which was compiled by the Ministry of Social Affairs. The target group of the support scheme is made up of low-income families, who either lack housing that would meet the needs of their household or whose housing does not comply with basic standards of living conditions, incl. a lack of a water or sewage system or washing facilities, the roof is not waterproof or

heating sources do not ensure an optimal air temperature level of the housing. Intended purpose – improving the housing conditions of families with many children.

- During the period of 2014–2017, support was used to improve the living conditions of 1,186 families with many children (866 of those families received this support for the first time); a total of 9,977,932 euros was used to support the improvement of housing conditions in the extent of 132,258 m<sup>2</sup>. The average amount of grant was 8,413 euros.

### ***Renovation grant of electrical installations for apartment associations and owners of small residential buildings***

The aim of the grant was to provide partial support from the state to the renovation of electrical installations in buildings that still use the old voltage system (3x220V) in Tallinn in a way that the buildings would transition to the new 3x230/400V voltage system.

- During the period of 2014–2017, support was granted to 114 applicants in a total volume of 301,676 euros; the average amount of grant was 2,646 euros.

### ***Apartment building reconstruction loan for apartment associations***

The loan was mostly used for thermal insulation of facades of apartment buildings and renovating heating systems thereof, as well as roof insulation and renovation of ventilation systems of apartment buildings.

- In 2014, 25 reconstruction loan contracts were signed in the total volume of 4,262,982 euros.

## ***Child care facilities***

### General regulation

In 2014, Estonia submitted information to the Committee concerning childcare services and establishments, also stipulated in Article 16. Additionally, more information concerning childcare can be found in chapter 27.1 of this report. When compared to information included in the Estonian Social Charter report of 2014, no changes have been made in the regulation of preschool child care institutions.

### Measures for the implementation of legal regulations, statistics

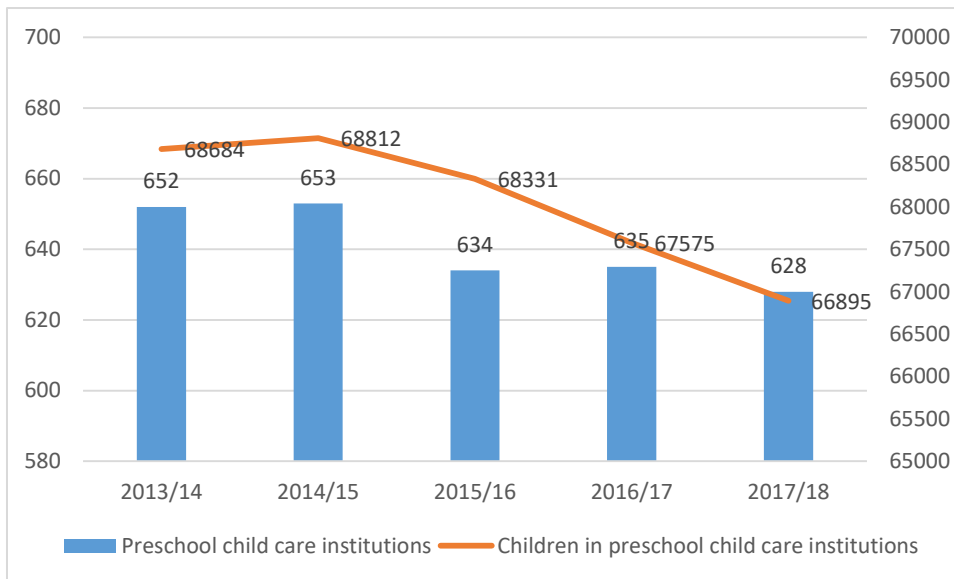
During the academic year of 2017/2018, there were 628 preschool child care institutions operating in Estonia and those institutions provided education to 66,895 children (see Figure 1). They were taught by 8,073 teachers<sup>4</sup>, who worked on the positions of 7,550 teachers. During the past five years, the number of children in preschool child care institutions has decreased by 3% and the number of child care institutions has decreased by 4%. At the same time, the number of teachers has increased by 3% and the number of positions by 1% (Source: Haridussilm).

**Figure 1.** Preschool child care institutions and children in preschool child care institutions during the academic years of 2013/2014–2017/2018.

---

<sup>4</sup>Based on the name of the position – Estonian language teachers, movement teachers, swimming teachers, music teachers, teachers, and teachers of special groups and adaptation groups.





Source: Haridussilm

During the academic year of 2018/2019, there are 6 creches (childcare establishments for children under the age of 3 years), 484 nursery schools, 3 specialist nursery schools and 126 nursery-primary schools operating in Estonia (Source: Estonian Education Information System). Pursuant to the inclusive education principle, children with special education needs attend regular nursing schools as well, as such an approach is better for their development as it would be to attend specialist nursing schools. This is also why the number of specialist nursing schools is that low. According to data of the Estonian Education Information System from 2017, support systems, incl. special needs education, logopedic support, individual development plan, support person, have been implemented to about 14% of children in preschool child care institutions. When compared to 2008, the amount of children with special education needs, who are subject to support systems at preschool child care institutions, has almost doubled. The state supports study counselling through Rajaleidja centres. Logopedic support, special education, psychological and socio-pedagogical support can be used by children who attend nursery schools, as well as parents and teachers.

In 2017, 27.8% of children aged 0–2 years attended nursery schools and early-years childcare establishments, whereas among children aged 3–6 years that proportion was 94.7% (Source: Statistics Estonia). Until the child is a year and a half old, the parent has the right to receive parental benefits; a place at a nursery school shall be made available once the parental benefit period ends.

In 2016, the total expenditure of the general government on primary education was calculated to be 3,676 euros per child, of which 92% was spent on operating expenses and 8% on investments (source: Haridussilm).

Pursuant to the Preschool Child Care Institutions Act, a rural municipality or city council shall establish the rate for the amount to be covered by parents which may vary depending on the age of the child, the management costs of the preschool institution or other circumstances. In 2015, the total volume of amount to be covered by parents was an average of 44 euros<sup>5</sup>, which is one of the lowest in Europe. The daily cost of catering for children is decided by the board of trustees of the

<sup>5</sup> Themas, A., Tarum, H., Soo, K., Reisberg, L., Ainsaar, M., Aksen, M., Puolokainen, T., Lauri, T. and Themas, E. (2015). Alushariduse ja lapsehoiu uuring (Study of preschool education and child care). Tartu: University of Tartu.

child care institution, which includes representatives of parents. The full and partial reimbursement of the cost of catering and place fees for children of disadvantaged families shall be in accordance with the procedure established by the local government. The current Preschool Child Care Institutions Act enables to take into account the different needs of families and children on the local government level.

Provision of free milk and dairy products has been organised at nursery schools in the framework of the national milk support; free vegetables are offered in the framework of the School Fruit Scheme (in 2017, the total support including that of schools amounted to 2,146,028 euros).

During the first application period of the academic year of 2017/2018, the rate of fruit and vegetable support at nursery schools is 0.05 euros per child for a study day, the rate of dairy product support rate per child is 0.108 euros for a study day.

### ***Family counselling services***

As was stated in the Estonian Social Charter report of 2014, family counselling services are still not regulated on a separate legal level. Therefore, we lack a comprehensive national overview of the need for the service, service providers or volumes of service provision.

The state offers psychological counselling service to persons in need, which, in the case of victims, is regulated by the Victim Support Act (if necessary, the psychological counselling service shall also be compensated for a family member of a victim, section 6<sup>1</sup>). Pursuant to Regulation of the Minister of Defence 'The conditions, extent and procedure of ensuring social counselling and psychological care for family members of servicemen who have died or sustained permanent damage to their health while carrying out their service duties' (sections 1 and 2) the extent of persons to whom compensation is provided in relation to social counselling and psychological care was increased as of 2015. Prior to 2015, that kind of compensation was only meant in cases involving active servicemen participating in international military operations, whereas, as of 2015, that right was also extended to the close ones of servicemen (incl. conscripts, reservists) who have died or sustained permanent damage to their health while carrying out service duties during military service in Estonia. This amendment ensures equal treatment in the area of social counselling and psychological care to close ones of all servicemen of the Defence Forces who have died or sustained permanent damage to their health during military service.

Family counselling services are provided primarily by service providers of the private sector and the voluntary sector, and local governments have information on local establishments that offer the service.

As of 2016, the Social Insurance Board has been conducting a project titled 'Provision of integrated services to people with difficulties in coping', which is a follow-up project to the project titled 'Provision of needs-based services to people with multi-problems through piloting case-based networking' conducted during 2012–2015. The aim of the project is to support social workers of local governments and counsel them in relation to more complex client cases, as well as the provision of counselling services to people with difficulties in coping across Estonia.

If necessary, the state supports various projects, in the framework of which family counselling services are provided to various target groups, via the Gambling Tax Council.

## ***Participation of associations representing families***

In compiling draft legislation and assessing the impact of an act in Estonia, Rules for Good Legislative Practice and Legislative Drafting, pursuant to which various interest groups have to be involved in different stages of the lawmaking process, are taken into account. In the case of lawmaking process that concerns children and families, draft acts have been sent to organisations that represent children and families, so that they could provide their assessments to the legislative changes, based on the needs and expectations of their interest group.

Associations who have been conducted for consultation include representative organisations that represent families with many children, families with one parent, children with disabilities, children without parental care and organisations working in child protection.

## ***Legal protection of families:***

### **Rights and obligations of spouses**

Compared to the Estonian Social Charter report of 2014, no significant changes have been made to Acts that concern the rights and obligations of spouses. Rights and obligations of spouses and parents continue to be regulated by the Family Law Act. Spouses have equal rights and obligations with respect to each other and family (subsection 15 (1) of the FLA). Parents have equal rights and obligations with respect to their children unless otherwise provided by law (subsection 116 (1) of the FLA).

The equality of spouses with regard to proprietary relations is a general principle that applies regardless of the selected proprietary relationship. Spouses can select, by an application for marriage or in the form of an agreement, select a proprietary regime that will apply to their proprietary relations: joint property, separate property or set-off of assets increment. If the prospective spouses do not select a proprietary relationship when getting married, the provisions regarding jointness of property shall apply to their proprietary relations as of the contraction of marriage (section 24 of the FLA). An addition was added to section 24 of the FLA and enforced as of 2017, pursuant to which the provisions regarding jointness of property shall also apply if the spouses have not selected the type of proprietary relations by an agreement to apply Estonian law to the proprietary rights. If separate property or set-off of assets increment is selected, then upon termination of the marriage, there will be no joint property of spouses, however, the share added to the property of each spouse during a proprietary relationship (acquired assets) shall be set off between the spouses (section 40 of the FLA).

Based on parent who is granted right of custody, parents shall have equal rights and obligations with regard to relations with children. The parent's right of custody includes the right to care for the person of the child and for the property of the child (subsection 116 (2) of the FLA). This means that parent have the right and obligation to jointly raise a child, exercise supervision over him or her, ascertain the whereabouts of the child and take care of the all-round well-being of the child in any other manner (subsection 124 (1) of the FLA). Parents also have the joint right and obligation to administer the property of the child and, inter alia, represent the child. This does not preclude the right of the child to administer his or her property independently in the cases provided by law. If parents have joint custody of their child, they shall perform the custodial obligation on their own responsibility and unanimously considering all-round well-being of the child (subsection 118 (1) of

the FLA). The right of custody can be changed only via court, not by way of agreement between the parents, in order to ensure all-round well-being and consideration of the child's interests.

### **Mediation services**

Compared to the report of 2014, no legislative changes have been introduced concerning mediation procedure and services, the same regulation that applied during the previous reporting period, still applies.

### **Domestic violence against women**

#### General regulation

Efficient response to domestic violence, incl. providing help to victims, is a priority issue for Estonia. As of 2015, pursuant to section 58 of the Penal Code, the following has been deemed an aggravating circumstance: commission of the offence against a person who is in a service or financially dependent relationship with the offender, and against a former or current family member of the offender, against a person who lives with the offender or a person who is otherwise in a family relationship with the offender. Additionally, pursuant to the section 121 (physical abuse) of the Penal Code, there is an option to impose a more severe punishment if the damage caused to the health of another person, as well as pain caused, has been committed in a close relationship or relationship of subordination.

In 2017, harassing pursuit, forced marriages, female genital mutilation and purchasing sex from a victim of human trafficking were criminalized. Sexual harassment became a misdemeanour. All those changes were made with the goal of ensuring improved protection from violence to women.

Domestic violence cases in Estonia are handled more actively and, as of the end of 2017, a cross-sectoral social and legal protection cooperation project was initiated in order to make the proceedings of domestic violence cases more efficient and to provide help to victims faster. In the form of cooperation of police, the prosecutor's office, local government social and child protection, national victim support and women's support centre, work began on testing out various approaches, which would ensure safety and empowering of a victim, fast intervention and case proceedings, as well as efficient needs-based social and psychological support to parties. One of the most important goals of the project is to ensure that the abuser takes responsibility for their actions.

#### Measures for implementation of legal regulation

In Estonia, national victim support services are ensured to all victims of crimes, neglect, physical, sexual or mental violence. Victim support services are organised by the Social Insurance Board across Estonia, in all counties; in most cases, in the same building with the police. Victim support service workers have received thorough training and they have the necessary skills to provide counselling to victims of various crimes, incl. violence. The Victim Support Department also organizes the women's support centre service, as well as services for victims of sexual violence and victims of human trafficking. Victims can receive compensation of the cost of psychological care and compensation meant for crime victims, and they are also dealt with by the national victim support. The objectives, target groups, location, etc. of victim support services are stipulated by the Victim Support Act.

Estonia ratified the Istanbul Convention in 2017. In relation to that, several amendments were made to legislation, incl. the Penal Code and the Victim Support Act.

As of January 2016, pursuant to subsection 36 (11) of the Code of Criminal Procedure, a victim has the right to request that his or her hearing is conducted by a person of the same sex when it comes to sexual violence, gender-based violence or a criminal offence committed in close relationship, except if the hearing is conducted by a prosecutor or a judge or if this would hinder the course of the proceeding.

Another important amendment is an amendment of the Victim Support Act that was enforced on 1 January 2017 and according to which the women's support centre service is organised by the Social Insurance Board. The service, which was previously lacking a clear system and set national funding, has become a continuously developed national service offered by women's support centres, which had been operating already earlier. Special funding for women's support centres was specified in the state budget in 2014, when it was 430,000 euros; the funding amount was 500,000 euros in 2015; 500,000 euros in 2016 and 2017; the budget for 2018 is 1,000,000 euros. Additionally, the Regulation of the Minister of Health and Labour, which stipulated the programme for training on the topic of violence against women, came to force in 2017. All people who work with victims of violence against women and who have not completed the corresponding training by 1 January 2017, must undergo this training. The training is free of charge and in 2017, it was provided by the Ministry of Social Affairs; as of 2018, it is provided by the Social Insurance Board. A free support line (1492) has been created for victims of violence against women and domestic violence; victims, their close ones and specialists can call this support line 24/7. The support line is financed from state budget resources as well.

In 2015, the Government of the Republic of Estonia approved the Violence Prevention Strategy 2015–2020, the aim of which is to achieve a situation in which violence is not tolerated in society, violence is noticed and interrupted. Victims of violence are protected and they receive help, work is conducted with abusers and in relation to prevention of violence. In the Violence Prevention Strategy, violence prevention is addressed on a broader sense at three levels of prevention – universal prevention, protection of victims and dealing with consequences of violence. Firstly, the strategy addresses public awareness and education of people, secondly, it focuses on the risk of falling victim or committing an offense, and thirdly, the consequences of violence are addressed through the strategy, providing support measures to victims and interventions to violent offenders. The preparation of the new development plan was coordinated by the Ministry of Justice; the working group included all relevant ministries, their agencies, citizen associations and local governments. The strategy covers, inter alia, domestic violence, sexual violence and human trafficking. The strategy determines those responsible for the activities; specific objectives have been formulated, as have been the indicators of their achievement and the resources used for achieving the objectives.

During 2012–2016, the Ministry of Social Affairs coordinated a programme titled 'Domestic and Gender-Based Violence', the main goal of which was to reduce and prevent gender-based violence and human trafficking through reducing gender-based violence and helping victims of human trafficking in Estonia. The cost of the project was 2,352,941 euros, of which 2,000,000 euros was support from Norway. Ten projects were financed, which were directed at noticing intimate partner

violence, children, young people with special needs, prevention of human trafficking, and providing support to victims of human trafficking and prostitution.

Under the Norwegian programme, the project 'Creating and Empowering an Extensive Support Network for Victims of Sexual Violence' was implemented during 2014–2016. A crisis care and rehabilitation service for victims of sexual violence was developed and piloted. Guidelines were compiled for doctors concerning how to work with victims of sexual violence, training was organised for medical staff, as well as network training and an information campaign. At the end of the project, the Social Insurance Board continued the activities, incl. initiated the provision of services meant for victims of sexual violence at two Estonian hospitals in 2016; in 2017, two more centres were set up at hospitals. In all four regions, the relevant service is ensured, medical personnel has been trained and evidence, which can later be used in court, is collected from victims.

For the purpose of raising awareness of violence against women and domestic violence, numerous network trainings have been carried out, during 2013–2016, for specialist who come into contact with victims (police officers, prosecutors, judges, social workers, victim support and child protection workers, medical staff, teachers, etc.). A survey of awareness and attitudes of the Estonian population has been conducted, as well as a study on the spread and awareness of sexual violence. Awareness raising activities include various campaigns and informative events that have been organised ('Open your eyes' campaign in the framework of the Progress project; 'No justification for sexual violence' / 'NO means NO', 'Violence is not love', 'Who hits, does not love', 'Shadows' in the framework of the Norwegian financial mechanism), as well as discussion in the media (press releases, articles in the media, interviews on the radio and television).

### Statistics

In 2014, 2,721 domestic violence crimes were registered; in 2015 that number was 2,997; 3,017 in 2016 and 2,632 in 2017. Therefore, 13% fewer crimes were registered in 2017 when compared to 2016. Two thirds of domestic violence crimes are related to a previous or current partnership. At least one third of domestic violence crimes have a victim or witness who is a child.

In 2014, 3,013 people turned to victim support due to domestic violence; in 2015, that number was 3,650; 3,740 in 2016 and 4,582 in 2017. Most of the people turning to victim support for that reason were women.

During the Norwegian programme, over 32 months (period of 2013–2016), 2,096 calls were made to the helpline meant for victims of violence against women. 93% of callers were women, 7% were men (mostly people close to a female victim). Of the cases, 31% mainly involved physical violence, 45% psychological violence, 18% economic violence and 7% sexual violence. In most cases, the abuser was a partner or ex-partner of the victim. 750 calls were made in 2017.

In 2014, 1,617 women turned to women's support centres, in 2015 that number was 1,753, in 2016 that number was 1,939, in 2017 that number reached 2,000.

### **The European Social Charter – reply to the question in the conclusions**

The main objective of the programme 'Domestic and Gender-Based Violence' was to reduce and prevent gender-based violence and human trafficking through reducing gender violence and

helping victims of human trafficking in Estonia. The cost of the project was 2,352,941 euros, of which 2,000,000 euros was support from Norway. The following activities were carried out:

- Providing improved support services for victims of gender-based violence and improving the skills and knowledge of people who work with victims of violence.
- Supporting the helpline against human trafficking, providing preventive counselling and support to victims.
- Developing and providing new services to victims of sexual exploitation.
- Increasing public awareness of gender-based violence by way of training, campaigns, studies and analyses.
- Increasing public awareness of human trafficking by way of training, campaigns, studies and analyses.
- Supporting non-profit organizations working in the field of domestic violence and human trafficking in order to increase their operational capacity.

The largest support amount, 908,510 euros was granted to the Estonian Women`s Shelters Union. The project`s aim was to provide improved support services to victims of violence, strengthen cooperation between institutions and to increase relevant public awareness. The topic of domestic violence and victims thereof were focal points. Additionally, several projects were financed, which were directed at noticing intimate partner violence, children, young people with special needs, prevention of human trafficking, and providing support to victims of human trafficking and prostitution. More detailed information regarding all projects that were supported, promoters thereof and support amounts is accessible at <http://www.sm.ee/et/toetatud-projektid-2>

## ***Economic protection of families***

### **Family benefits**

The Estonian Family Benefits Act (FBA) came to force on 1 January 2017; it is used to regulate conditions of granting family allowances and benefits. Until 2017, family allowances and benefits were regulated by the State Family Benefits Act, the Parental Benefit Act and the Maintenance Allowance Act.

#### **I Family allowances**

The purpose of family allowances in Estonia is to ensure for families with children the partial reimbursement of expenses relating to the care, raising and education of children (Chapter 2 of the FBA).

There are seven types of family allowances and they are divided into two groups – monthly family allowances and single family allowances (paid only once).

Monthly family allowances are the following: child allowance, child care allowance, single parent`s child allowance, guardianship allowance, allowance for a family with many children, allowance of a multiple birth of three or more children, conscript`s (or person in alternative service) child allowance.

Single family allowances are the following: childbirth allowance and adoption allowance.

All the aforementioned allowances are paid through the Social Insurance Board.

**1) Child allowance** (section 17 of the FBA) is a monthly allowance paid from the birth of the child until he or she attains 16 years of age. A child who is enrolled in a basic school or upper secondary school, or a child without secondary education enrolled in formal vocational education has the right to receive child allowance until he or she attains 19 years of age. When the child attains 19 years of age, payment of the allowance shall continue until the end of the current academic year.

In 2014, the amount of child allowance for the first and second child of a family was 19.18 euros, and 76.72 euros for the third and each subsequent child.

In 2015, the amount of child allowance was 45 euros for the first and second child, in 2016 and 2017 it was 50 euros. From 2015 onwards, the child allowance for the third and subsequent child was 100 euros.

The decision that allowance for the first and second child will increase between the years 2016 and 2019 was adopted in 2015. Allowance for the first and second child will be 55 euros in 2018 and 60 euros in 2019.

**2) Child care allowance** (section 18 of the FBA) is a monthly allowance that is paid to one parent who is raising a child of up to three years of age, or paid at a rate of  $\frac{1}{2}$  of the child care allowance to the person who uses child care leave instead of the parent; the rate of child care allowance for each child of up to 3 years is 38.36 euros.

In a family that raises, in addition to the child aged up to three years, additional children aged three to eight years, one parent shall receive  $\frac{1}{4}$  of a monthly child care allowance at a rate of 19.18 euros per each child aged three to eight years.

In a family of three or more children, which includes three or more children who are at least three years old and receive child allowance, one parent shall be paid  $\frac{1}{4}$  of a monthly child care allowance at a rate of 19.18 euros per each child aged three to eight years.

Child care allowance shall not be paid for a child in connection with whose birth or adoption maternity benefit or adoption benefit is paid pursuant to the Health Insurance Act. Child care allowance shall not be paid if one of the parents is paid parental benefit.

An Act to amend the Family Benefits Act and other related Acts was approved in December 2017 and it was decided that child care allowance will no longer be paid as of 1 September 2019. Resources of child care allowance shall be gradually added to the parent benefit scheme.

**3) Single parent's child allowance** (section 19 of the FBA) is a monthly allowance paid for a child whose birth registration or vital statistics data entered in the population register contain no entry concerning the father or whose parent has been declared to be a fugitive.

The allowance amount is 19.18 euros.

**4) Guardianship allowance** (section 20 of the FBA) is a monthly allowance paid to a child whose parents fail to perform the obligation to raise the child and to care for the child arising from the Family Law Act and for whom guardianship has been established. Payment of the allowance shall be



terminated as of the month following the termination of guardianship or, upon termination of guardianship when a child attains 18 years of age, payment of the allowance shall continue until the end of the academic year when the child attains 19 years of age or until the student is excluded from the list of the school.

The amount of guardianship allowance shall be 240 euros for each child under guardianship.

**5) Allowance for a family with many children** (section 21 of the FBA) is paid to a parent who has three or more children for whom child allowance is paid in their family.

The amount of allowance for a family with many children is 300 euros for a family with three to six children; for a family with seven or more children the allowance amount is 400 euros.

The allowance for a family with many children in the case of three or more children was enforced on 1 July 2017 and it replaced the parent's allowance for families with seven or more children, which was paid only to a parent raising seven or more children and the amount of which was 2.2-times the rate of child care allowance (168.74 euros).

**6) Allowance for multiple birth of three or more children** (section 21<sup>1</sup> of the FBA) is a monthly family allowance paid from the children's birth, to a parent, parent of a care family or guardian, who is raising triplets or more children born at the same time. The right to receive this allowance applied until the day that the children turn 18 months old. The allowance amount is 1,000 euros.

The allowance for multiple birth of three or more children was stipulated in December 2017 with the amendment of the Family Benefits Act and it came to force on 1 March 2018.

**7) Conscript's (or person in alternative service) child allowance** is a monthly allowance paid for a child whose parent is serving in the Estonian Defence Forces, or in alternative non-combatant service. Until 2016, the allowance amount was 47.95 euros; it has been 50 euros as of 2017. Until 31 December 2016, the conscript's (or person in alternative service) child allowance was paid on the basis of the State Family Benefits Act; however, from 1 January 2017 the conditions and the payment of the conscript's (or person in alternative service) child allowance are regulated by the Military Service Act.

Until 1 January 2018, persons without parental care were paid a start in independent life allowance when they moved to a new place of residence independently. A person without parental care was defined as a person who stayed at a substitute home as a child or for whom guardianship was established or in respect of whom a written foster care contract was entered into. The allowance amount was 40 times the rate of child allowance, i.e. 383.60 euros. The state budget resources left over from the allowance were given to local governments for the provision of needs-based services and payment of allowances to the same target group.

**Single family allowances are the following: childbirth allowance and adoption allowance.**

**1) Childbirth allowance** is a single allowance, the amount of which is 320 euros, and it is paid for each child born (one child or twins). In the case of a multiple birth of three or more children, the amount of childbirth allowance shall be 1,000 euros for each child.

2) Adoption allowance is a single allowance that is paid to an adoptive parent from whom an adopted child does not descend and who is not the spouse of a parent of the child, if childbirth allowance has not been paid to the family for the same child earlier. Adoption allowance shall be paid in the amount of 320 euros for each child adopted.

#### Statistics

**Table 1. Recipients of state family allowances, 2014–2017**

(at the end of the year; for the entire year in the case of single allowances)

Type of allowance	2014	2015	2016	2017
<b>Childbirth allowance</b>	13,712	14,040	13,997	13,393
First child	5,901	6,052	5,932	5,613
Second child and each following child	7,399	7,526	7,627	7,336
Multiple birth	412	462	438	444
<b>Adoption allowance, children</b>	32	28	13	27
<b>Child allowance<sup>1</sup></b>	250,715	252,439	254,696	257,404
First child	157,603	157,731	158,040	158,278
Second child	71,267	72,354	73,639	74,925
Third child and each following child	21,845	22,354	23,017	24,201
<b>Child care allowance</b>	40,113	39,680	39,829	40,834
for a child under the age of 3	20,480	20,077	20,172	20,638
for children aged 3 to 8 in families with a child under the age of 3	8,809	8,345	8,337	8,518
for children aged 3 to 8 in families with 3 and more children	10,824	11,258	11,320	11,678
<b>Parent's allowance for families with seven or more children, families</b>	143	133	132	125
<b>allowance for families with many children, families</b>				19,035
<b>Single parent's child allowance, children</b>	19,035	17,848	16,512	15,258
Single parent's child allowance, families	15,843	14,869	13,859	12,857

<b>Foster care or guardianship allowance, children</b>	1,745	1,672	1,663	1,582
Foster care or guardianship allowance, families	1,381	1,326	1,311	1,254
<b>Conscript's child allowance</b>	23	22	22	23
<b>Start in independent life allowance</b>	88	61	87	108

<sup>1</sup> Number of children for whom the allowance is granted. The number of recipients of allowance for a first child also indicates the total number of families who receive child allowances.

*Source: Social Insurance Board*

## **II Needs-based family benefit**

One of the state family benefits that was paid from state budget resources through local governments during 2013–2017 was the needs-based family benefit. Families had the right to receive needs-based family benefit if they had children and lived below the income threshold of needs-based family benefit. As of 1 January 2014, the right to receive needs-based family benefit was also extended to families who received subsistence benefit. Therefore, this was an additional allowance to low-income families with children. The Parliament established the income threshold of needs-based family benefit for the first family member for each budgetary year by the state budget. The income threshold of needs-based family benefit was based on the relative poverty threshold as last published by Statistics Estonia by 1 March of the year preceding the budgetary year. Income threshold of needs-based family benefit for each subsequent family member who is 14 years of age or older, was 50 per cent and the income threshold of needs-based family benefit for each family member under 14 years of age was 30 per cent of the income threshold of needs-based family benefit for the first family member.

In order to apply for the needs-based family benefit, an applicant for the needs-based family benefit submitted an application, with documents specifying the income of the past three months, to the local government. The decision to grant the benefit was made for the next three months. As of 2015, the amount of needs-based family benefit was 45 euros per month for a family with one child, and 90 euros per month for a family with two or more children.

In 2018, the needs-based family benefit was declared invalid as it did not fill the purpose for which it had been set up – decrease poverty of children or prevent the occurrence of poverty – to the expected extent. Even though the number of families who received needs-based family benefits increased with each year, it still remained smaller than the number that had been expected when launching the benefit.

In order to compensate for the disappearance of the needs-based family benefit and effectively contribute to reducing the absolute poverty of children, as of 2018, the subsistence level of children was increased to 120% of the subsistence level of the first member of the family.

### Statistics

The payment of needs-based family benefits began in the middle of 2013, therefore, the statistics on needs-based family benefits only reflect data from the second half of 2013. In the second half of 2013, 4,914 people got an approval for receiving needs-based family benefits and a total number of

applications approved was 9,392. The number of people receiving needs-based family benefits and the number of approved applications increased from the start of granting the benefit up to the year 2016. In 2017, there was a decrease in the corresponding indicators as 5,919 people received an approval for needs-based family benefits, which is 423 more people than in 2014, but 662 fewer than in 2016. A total of 15,465 applications were approved in 2017, which amounted to 2,399 applications more than in 2014, but 1,904 applications fewer than in 2016.

**Table 2. General data on the payment of needs-based family benefit, 2013–2017**

	2013	2014	2015	2016	2017
Persons whose applications have been approved	4,914	5,251	5,952	6,184	5,624
<b>Number of applications approved</b>	<b>9,392</b>	<b>13,066</b>	<b>16,116</b>	<b>17,369</b>	<b>15,465</b>
Average number of approved applications per one applicant	1.91	2.49	2.71	2.81	2.75
Number of payment instances of the benefit	20,457	39,179	47,542	51,686	48,698
<b>Amount spent on payment of the benefit (in euro)</b>	<b>313,832.75</b>	<b>599,538.03</b>	<b>3,436,335</b>	<b>3,743,280</b>	<b>3,534,435</b>
Amount of average payment (in euro)	15.34	15.30	72.28	72.42	72.58

*Source: Ministry of Social Affairs, Social Services and Benefits Registry (STAR)*

In 2014, the income threshold for needs-based family benefit was 299 euros per month for the first member of the family, 149.5 euros for each subsequent family member aged at least 14 years and 89.7 euros for each subsequent family member under 14 years of age. By 2017, the income threshold for the needs-based family benefit had increased to 394 euros per month for the first member of the family, to 197 euros for each subsequent family member aged at least 14 years and to 118.2 euros for each subsequent family member under 14 years of age.

**Table 3. Data on granting needs-based family benefit, 2013–2017**

	2013	2014	2015	2016	2017	Change in 2017 when compared to 2014 (in euro)
<b>Income threshold</b>						
for the first member	280	299	329	358	394	95
each following 14+ member	140	149.5	164.5	179	197	47.5
for each child under the age of 14	84	89.7	98.7	107.4	118.2	28.5
<b>Amount of needs-based family benefit</b>						

Family with one child subject to child allowance	9.59	9.59	45	45	45	35.41
Family with two or more children subject to child allowance	19.18	19.18	90	90	90	70.82

Source: Ministry of Social Affairs, Social Services and Benefits Registry (STAR)

### III Parental benefit

Additionally, one of the parents is paid parental benefit, the purpose of which is to retain, by grant of support by the state, the previous income for persons whose income decreases due to the raising of a child, and to support the reconciliation of work and family life. Persons who have not received income shall be ensured with income to the extent of the benefit rate, which was 430 euros in 2017 (and 470 euros per month in 2018).

The amount of the benefit per calendar month shall be calculated on the basis of the average income of the applicant for the benefit per calendar month. As a rule, the amount of the benefit is 100% of the benefit recipient's average monthly income (subject to social tax) of the previous calendar year.

Parental benefit in the amount of minimum wage is paid to a person whose average monthly income of the preceding calendar year was equal to or smaller than minimum wage. Minimum wage in 2017 was 470 euros per month (and 500 euros in 2018).

The maximum amount of the benefit per calendar month shall be three times the average income subject to social tax of the year before the previous calendar year prior to the date on which the right to receive the parental benefit arises. In 2017, the limit of parental benefit was 2,907.15 euros per month (3089.55 euros in 2018). Maximum benefit is paid to a person whose average monthly income during the past calendar year was equal to or larger than the aforementioned amount. The limit of a parental benefit is three times the average wages in Estonia of the year before the previous calendar year, which is why it is subject to change every year. The new limit of parental benefit applies in the case of granting new benefits and to those persons who have been recipients of parental benefit previously; parental benefit is not re-calculated at the turn of the calendar year.

The right to receive parental benefit starts at the day following the last day of maternity benefit. If a mother did not have the right to receive maternity benefit, they will have the right to receive parental benefit from the time of the child's birth.

Parental benefit is paid for 435 days. A mother who does not have a previous employment relationship, shall be paid parental benefit from child's birth until the child turns 18 months old. The right to change the recipient of parental benefit (for example, the father of the child instead of the mother), can be applied once the child has turned 70 days old.

### Statistics

**Table 4.** Parental benefit recipients by type of parental benefit; characteristics: gender, average compensation amount, 2014–2017

Year	2014	2015	2016	2017

<b>Total of parental benefits granted</b>	14,366	14,505	14,799	14,428
men, %	9.0	8.9	9.3	9.9
women, %	91.0	91.1	90.7	90.1
<b>Parental benefits by type:</b>				
Parental benefit in the amount of 100% of income of a month	9,077	9,262	9,815	9,715
men, %	11.4	11.6	11.3	11.9
women, %	88.6	88.4	88.7	88.1
Parental benefit assigned in the maximum amount	652	627	617	637
men, %	26.8	24.1	28.5	30.1
women, %	73.2	75.9	71.5	69.9
Parental benefit in the amount of the minimum monthly salary	2,479	2,693	2,604	2,515
men, %	1.7	1.3	1.7	1.9
women, %	98.3	98.7	98.3	98.1
Parental benefit at the benefit rate	2,158	1,923	1,763	1,561
men, %	1.9	1.4	2.6	2.1
women, %	98.1	98.6	97.4	97.9
<b>Average assigned parental benefit in a year (in euro)</b>	858.30	928.13	1,040.15	1,123.50
Men	1,366.12	1,474.31	1,589.09	1,713.74
Women	808.12	875.04	983.83	1,058.77

Source: Social Insurance Board

#### IV Maintenance allowance

The Estonian Family Benefits Act (FBA) came to force on 1 January 2017; it is used to regulate conditions of granting family allowances and benefits. Prior to that the payment of maintenance allowance was regulated by the Maintenance Allowance Act. Maintenance allowance is an allowance paid by the state to a child whose parent does not perform the maintenance obligation or fails to perform such obligation to the extent prescribed by the Family Law Act. Maintenance allowance is paid to a child until he or she turn 18 years old or, in the case of studying, until he or she turns 21

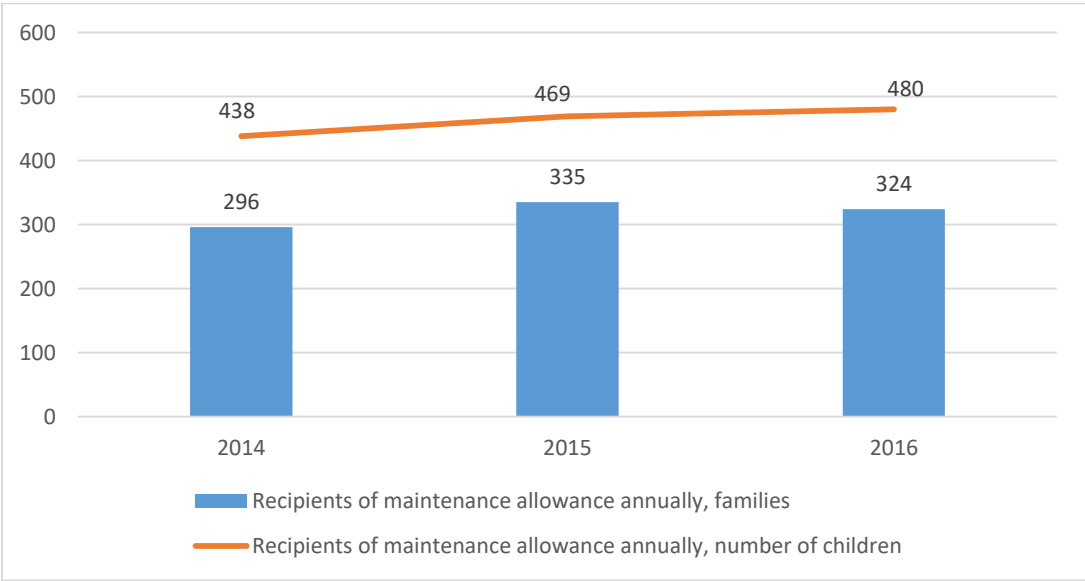
years old. A distinction is made between maintenance allowance during court proceedings and maintenance allowance during enforcement proceedings. Until 1 January 2017, children were only paid maintenance allowance during court proceedings, however, with the enforcement of the Family Benefits Act, a new type of benefit was created – maintenance allowance during enforcement proceedings. Additionally, the enforcement of the FBA also brought along amendments to the conditions of payment of maintenance allowance during court proceedings. Previously, maintenance allowance during court proceedings was paid for the duration of 90 days and the daily rate of maintenance allowance was one third of the child allowance rate. Pursuant to the amendment, maintenance allowance during court proceedings is paid 100 euros per month for up to 150 days. The payment period of maintenance allowance was extended to 150 days as, according to statistics, the court proceedings of a child’s maintenance claim lasts 150 days on average. The maintenance allowance during enforcement proceedings is paid if the parent does not pay maintenance arising from the court decision and an enforcement proceeding has been initiated with regard to the maintenance claim. Maintenance allowance during enforcement proceedings is paid in the amount of 100 euros per month.

**Statistics**

According data of the Social Insurance Board, in 2016, maintenance allowance was paid to 324 families for 480 children. The average amount for an approved application in 2016 was 282 euros. In total, in 2016, the state paid maintenance allowance in the amount of 114,454 euros.

According to data from March 2018, there were 9,220 maintenance obligors in Estonia and the total amount of maintenance to be collected by bailiffs is a little over 60 million euros.

**Figure 2. Recipients of maintenance allowance**



Source: Social Insurance Board

## **V Subsistence benefit**

Subsistence benefit is a social benefit paid to people in need from state budget resources. Subsistence benefit is granted and paid by local governments. When calculating subsistence benefit, the following is taken into account: the monthly income of a person living alone or income earned by all family members, dwelling expenses of the current month, and the subsistence level. The Parliament establishes the subsistence level for the first or only family member for each budgetary year by the state budget. The subsistence level of the following adult family members is 80% of the single level and in 2017, the subsistence level of every child was increased to the level of the first family member. During 2014–2017, the rate of subsistence level changed significantly, increasing from 90 euros per month for the first or only family member and each minor family member to 130 euros per month, and from 72 euros to 104 euros per month for every subsequent adult family member. In 2018, children's subsistence level was increased, in relation to the disappearance of the needs-based family benefit, to 120% of the subsistence level of the first family member. Also the subsistence level was increased. In 2018, the subsistence level of the first or only adult family member is 140 euros, the subsistence level of a child is 168 euros, and the subsistence level of each subsequent adult family member is 112 euros.

The recipient of subsistence benefit whose all family members are children who are minors, incl. families with a single parent, has the right to receive supplementary social benefit of 15 euros together with the subsistence benefit.

### Statistics

In 2017, 4,411 households with children were paid subsistence benefit, which is 9.5%, i.e. 464 households less than in 2016 and 883 households less than in 2014. The share of households with children accounted for 31.4% of all households that received support in 2017, and has remained nearly unchanged during 2014–2017 (31.9% in 2014 and 2016).

In total, there were 8,652 children in households that received subsistence benefits in 2017, which is 12.5%, i.e. 1,239 fewer children than in 2014.

In 2017, 28,125 applications for subsistence benefit were granted for households with children, which is 13.7%, or 4,456 applications fewer than in 2016, and 4,403 applications fewer than in 2014. Households with children accounted for 31.7% of all applications of households in 2017 (32.1% in 2014 and 32.8% in 2016). In 2017, on average, a household with children received subsistence benefits 6.4 times.

The decrease in households and approved applications was mainly caused by households where at least one family member was registered as unemployed. Households with unemployed family members accounted for 55.9% of households that received subsistence benefits in 2014, whereas that share was 50.6% in 2017.

For households with children, in 2017, subsistence benefit was 8.65 million euros, i.e. 47.2% of the total amount of subsistence benefit (7.86 million euros, i.e. 46% in 2014). The average calculated benefit amount per application of a one-child household was 307.41 euros in 2017, which is 101.11



euros, i.e. 49% higher than the national average calculated subsistence benefit (per one approved application).

**Table 5. Payment of subsistence benefit to households with children (aged 0–17 years), 2013–2017**

	2013	2014	2015	2016	2017
Number of households	6,123	5,294	4,561	4,875	4,411
Number of applications approved	36,752	32,528	28,440	32,581	28,125
Number of children (aged 0–17 years) who received subsistence benefits	11,145	9,891	8,717	9,578	8,652
The average number of times one household received benefits (number of applications/number of households)	6.0	6.1	6.2	6.7	6.4
Calculated subsistence benefit (in euro)	8,043,211	7,860,824	6,939,356	10,485,410	8,645,874
Average amount of benefit per application	218.85	241.66	244.00	321.83	307.41

*Source: Ministry of Social Affairs, Social Services and Benefits Registry (STAR)*

### **The impact of family allowances and parental benefit on poverty**

Family allowances and parental benefit have an important role in supporting children and families with children, as well as mitigating poverty.

There are two main indicators used to assess the economic coping capacity of people with low incomes: indicators of absolute and relative poverty.

At-risk-of-poverty rate shows the percentage of people whose income level is below the agreed upon relative poverty limit. In Estonia, as is the case in all other European Union countries, the relative poverty limit is 60% of the median of the population's income in terms of consumption scales of 1:0.5:0.3.

The absolute poverty line, i.e. the subsistence minimum is calculated on the basis of expenditure in Estonia, and the absolute poverty rate expresses the proportion of households whose income per household member, in the case of consumption scales of 1:0.7:0.5, falls below the absolute poverty line (i.e. below the level of expenditure that is the absolute poverty line), or below the minimum subsistence level<sup>6</sup>.

In 2016, the relative poverty rate of children aged 0–17 years decreased to 16.5% (18.6% in 2015), falling to a level somewhat lower than that of the overall population (21.1%). 3.5% of children lived below the absolute poverty line (5.1% in 2015). For the whole population, this indicator was slightly lower, 3.3%. In 2016, an estimated 8,700 children under the age of 18 lived in absolute poverty and 41,200 children under the age of 18 lived in relative poverty.

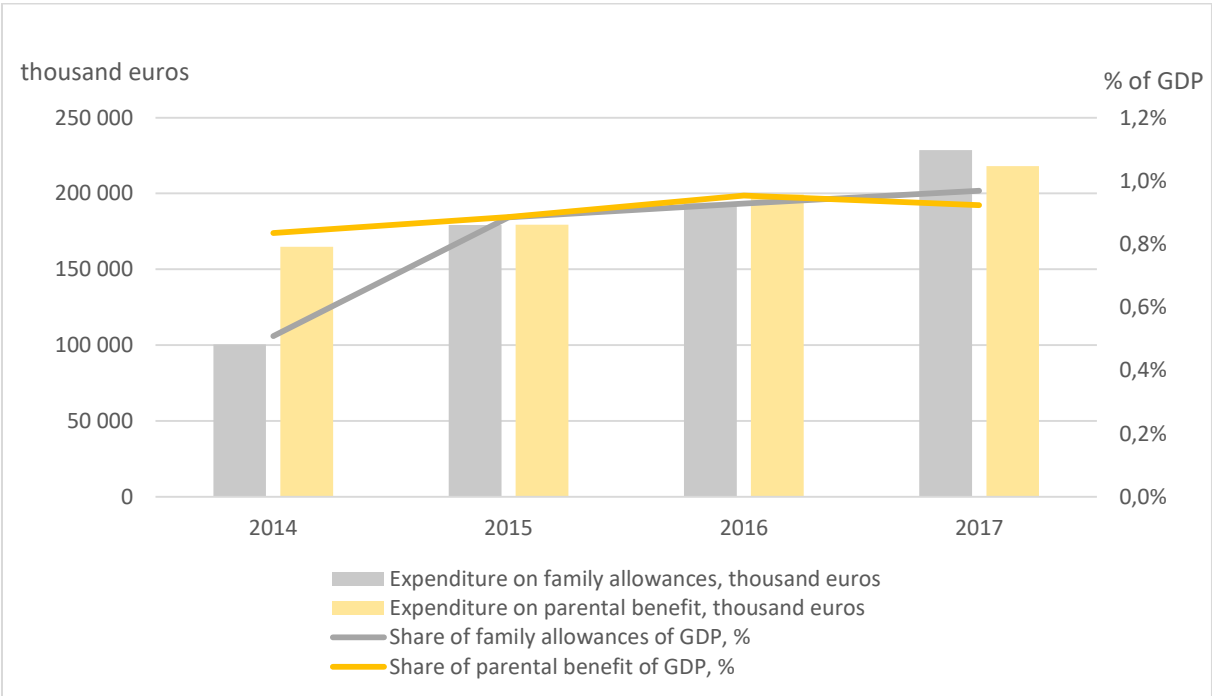
In 2016, all social transfers (including pensions, family allowances) reduced the absolute poverty rate of children by 10.7 percentage points, i.e. an estimated share of almost 75% (in 2015, it decreased by 11.5 pp, i.e. by almost 69%). Looking at the relative poverty rate of children before and after social

<sup>6</sup>Three cost components are taken into account when calculating the minimum subsistence level: food, housing and individual non-food expenditure. Food expenditure is calculated based on the minimum consumer basket.

transfers, it can be said that in 2016 social transfers (including pensions, family allowances) reduced the relative poverty rate of children by 15.6 percentage points, i.e. about 49% (in 2015, by 13.3 pp, i.e. about 42%).

Transfers related to families include family allowances and parental benefit. The impact of family allowances and parental benefits on absolute poverty reduction was 2.4 percentage points throughout the population. Family allowances and parental benefits primarily affect the absolute poverty of 0–17-year-olds (6.7 pp in 2016), as both are meant for families with children. Although parental benefits are several times higher than family allowances, family allowances mitigate poverty slightly more than parental benefits, for the population as a whole, as well as in terms of child poverty. The impact on poverty of parental benefits, which are substantially higher than family allowances, is hampered by the shortage of the payment period of parental benefit. Family allowances and parental benefits decreased the relative poverty of children by 9.2 pp (the effect on the reduction of relative poverty in the whole population was 3.7 pp).

**Figure 3. Expenditure on family allowances and parental benefit, and their share of GDP, 2014–2017**



**Table 6. Impact of family allowances and parental benefit on children’s (aged 0–17 years) absolute and relative poverty, 2016 (percentage point<sup>1</sup>)**

	Total of family allowances and parental benefit	Family allowances	Parental benefit

Absolute poverty	6.7	3.5	2.4
Relative poverty	9.2	5.3	4.1

<sup>1</sup> Difference in the rate of absolute and relative poverty prior to family allowances and parental benefit and after social transfers.

*Source: Statistics Estonia, Estonian Social Survey of 2017*

Of all households with children, family allowances and parental benefits affect couples with three children the least. In total, in 2016, family allowances and parental benefit reduced the absolute poverty of these households by 11.5 pp and the relative poverty by 16.8 pp. Family allowances and parental benefits have a greater impact on single-parent households than they do on other households, as family allowances and parental benefits affect the absolute poverty of single-parent households by 6.3 pp and the relative poverty of those households by 6.6 pp.

### **The European Social Charter – reply to the question in the conclusions**

According to Eurostat, in 2017, the equivalent average monthly income was 782 euros. The monthly amount of child allowances for the first and second child was 50 euros and 100 euros for the third child and each subsequent child. Therefore, child allowance accounted for 6.4% of the income for the first and second child, and 12.8% for the third and each subsequent child. As previously described, on 1 July 2017, an allowance for families with many children was enforced, which is paid monthly, in addition to child allowances, to families with three to six children (300 euros) and families of seven or more children (400 euros). Thus, in families with three children, family allowances (totalling 500 euros) accounted for 64% of income in 2017.

## ***Vulnerable families***

### **Families with a disabled child**

Determination of the degree of severity of the disability of a child provides the right to receive various social services, allowances and discounts that are provided by the state and local governments. Providing assistance to a disabled child and his or her family is divided between the state and local government.

Assistance from the state has been described in the following list:

- Pursuant to section 6 of the Social Benefits for Disabled Persons Act, disabled child allowance shall be paid monthly to a child with a moderate, severe or profound disability for compensation for the additional expenses caused by the disability and for the activities prescribed in the rehabilitation plan, except for the activities financed from the health insurance and other state budget funds. Disabled child allowance shall be paid until the child attains 16 years of age. A child with a moderate disability shall be paid 270% of the social benefit rate, which is 69.04 euros; a child with a severe or profound disability shall be paid 315% of the social benefit rate, which is 80.55 euros. Disabled child allowance shall be paid to the parent.

- Rehabilitation service, which includes the assessment of need for rehabilitation and planning of activities, the service of a physiotherapist, as well as services of an occupational therapist, creative therapist, social worker, special education teacher, psychologist, experience counsellor, nurse, physician and speech therapist. Services are provided on an individual basis, or to a family or group, with the exception of a physician's service, which is provided only on an individual basis. The services provided within the framework of the rehabilitation service are listed in Annex 1 to Regulation No. 66 of 21 December 2015 of the Minister of Social Protection. The regulation also establishes the extent of services that can be provided per calendar year. Most services may, if necessary, be provided up to the maximum amount set for a calendar year, for example, for children with a disability, services can be provided in the amount of up to 1,395 euros per year, until the end of the calendar year during which the child reaches the age of 16 years. Disabled persons over 16 years of age are considered to be persons of working age under the Social Benefits for Disabled Persons Act. According to the data of the Social Insurance Board, in the 2017 year, 8,330 people aged 0–17 (incl. about 200 persons aged 16–17) received social rehabilitation services for a total of 4.9 million euros.
- The state pays compensation for the purchase and lease of technical aids for the maintenance of people's daily operational capacity and prevention of deterioration.

List of technical aids, conditions and procedure for the assumption of the obligation to pay the fee for technical aids and the conditions for making exceptions, and data of the technical aid card is established by Regulation No. 74 of 21 December 2015 of the Minister of Social Protection. According to the data of the Social Insurance Board, in 2017, 5,520 children (0–17 years old) were provided with technical aids at a discount.

- Education allowance shall be paid monthly to a non-working disabled student who attends upper secondary school in years 10 to 12 or who attends a vocational school or institution or an institution of higher education, and who has additional expenses in relation to his or her studies as a result of the disability. Study allowance is not paid for July and August. Education allowance shall be paid according to the actual additional expenses of the person but in an amount of not less than 25 percent or not more than 100 percent of the social benefit rate.

Assistance from local governments has been described in the following list:

- Social counselling – prevention of social problems and providing help to a person with solving problems that have already arisen.
- The objective of childcare service is to support the ability of a person raising a child to cope or work or to reduce the care burden arising from the special needs of the child. Support shall be prescribed for local authorities in the state budget in accordance with the possibilities of the state budget for the provision of assistance to children with a severe or profound disability. A local authority may use the aforementioned support for the provision of childcare service, support person service, social transport service or other social services to children with a severe or profound disability in order to help to reduce the care burden of the family of a child with a severe or profound disability or an additional need arising from the disability. In 2017, local governments used 1,952,378 euros of the allocated funds for the provision of services. Local governments directed the most funding to child care service and

support person service. In 2017, 632 children with severe disability and 136 children with profound disability received childcare service throughout the year (the total cost of childcare service was 576,262 euros), support person service was provided to 457 children with severe disability and 66 children with profound disability (total cost of support person service was 662,421 euros).

- Disabled children without parental care are provided alternative care service. Alternative care service can also be provided in the short-term or periodically under the consent of a parent. Alternative care service is a social service organised by a local authority, the objective of which is to ensure the long- or short-term well-being and rights of a child, ensure family-like living conditions to a child for the satisfaction of the basic needs of the child, to create a secure physical and social environment promoting his or her development and to prepare the child for coping in accordance with his or her abilities as an adult.
- Support person for a family – provides help with running errands, offer emotional support, shares experiences and information.
- A support person shall assist the child in activities which promote development, guide and motivate the child to cope in everyday life.
- Additional financing of rehabilitation services
- Additional financing of technical aids
- Transport for disabled persons is meant for people suffering from impaired mobility or impaired vision, and persons with intellectual disabilities who have difficulties with learning or using personal transport or public transport services due to health damage or intellectual disability.
- Day centres – the aim of the activity is to support the development of children and provide them with a safe environment for leisure.
- Caregiver's allowance and the accompanying social security are monthly social allowances, the conditions and procedure for the payment of which is to be established by the local government council.
- Training courses for parents and children
- Events and the establishing and supporting self-help groups for parents
- Allowances and benefits
- Clothing and food aid

Adaptation of dwellings – the purpose of the service is to ensure that a person who has difficulties with moving about, communicating, or coping in a dwelling, could, independently or with as little personal assistance as possible, safely and independently cope in the dwelling and at entry into and exit from the dwelling.

### **The European Social Charter – reply to the question in the conclusions**

According to data from the population census of 2011, there were 456 people of Roma origin living in Estonia – 215 of them male and 241 female. Compared to the population census carried out in 2000, the number of Roma has decreased by 86 people. As the Roma community is rather small in Estonia, no separate measures have been created for the Roma. Equal opportunities and social protection is guaranteed for the Roma living in Estonia on the same basis as for other residents of Estonia.

### **Equal treatment of foreign nationals and stateless persons with regard to family benefits**

Compared to the report of 2014, no fundamental changes have been made to the legal provisions governing foreign nationals and stateless persons. Equal treatment of such persons continues to be ensured, incl. in the case of family allowances. All legislation regulating family allowances and benefits applies to permanent residents of Estonia, including stateless persons, in accordance with the conditions provided for in subsection 6 (1) of the Income Tax Act.

In 2015, Estonia and Australia signed a bilateral social security agreement. The main objective of the agreement was to guarantee pension rights with regard to the movement of persons between Estonia and Australia, while maintaining control over unjustified payments of pensions. The agreement came into force in 2018.

A more detailed description of ensuring cross-border social security rights is provided in Article No. 12 of the European Social Charter.

### **The European Social Charter – reply to the question in the conclusions**

All residents of Estonia, regardless of their citizenship, have the right to family benefits (section 3 of the General Part of the Social Code Act). Additionally, beneficiaries of international protection (refugees) are entitled, during their stay in Estonia, to receive family benefits (subsection 75 (1) of the Act on Granting International Protection to Aliens – “during his or her stay in Estonia, a beneficiary of international protection is entitled to receive state pension, family support, employment services and employment subsidies, social benefits, health services and other assistance on the same grounds provided by legislation as a permanent resident of Estonia”).

Estonia’s current legal framework allows for a three month term for voluntarily vacating a living space in case of enforcement procedure. The minimum term for voluntary compliance with the enforcement instrument is 14 days. Furthermore, the persons concerned have a right to contest this term and apply for interim relief. This may for example be granted to a financially insecure family that would otherwise have to vacate the living space in the winter and the local municipality is unable to provide them with alternative housing.

Just as the reply provided to the Committee in the chapter describing family allowances, it can also be said here that, as of 2015, family allowances have increased significantly in Estonia; additionally, the allowance of a family with many children has been introduced (starting from the third child), which is why we do not agree to the conclusion that family allowances are not sufficient for a lot of families in Estonia. Requirements concerning the level of family benefits have

been set out in Article 44 of the European Code of Social Security. According to which, the total value of the benefits granted in accordance with Article 42 to the persons protected shall be such as to represent 1.5 percent of the wage of an ordinary adult male labourer as determined in accordance with the rules laid down in Article 66, multiplied by the total number of children of all residents. Estonia has always adhered to this requirement of the Code and continues to do so.

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

### ***Subsection 1 – Assistance, education and training***

The new Child protection Act came into force on 1 June 2016 (<https://www.riigiteataja.ee/en/eli/506052015001/consolide>). Additionally, at the start of 2016, work began at the Child Protection Department of the Social Insurance Board; the role of this department is to implement the national child protection policy. Child Protection Department of the Social Insurance Board supports local governments in resolving child protection cases, finding measures suitable for children and compiling development plans that support the well-being of children. Feedback received from local governments so far, concerning the work of the Child Protection Department of the Social Insurance Board has been positive, local authorities have pointed out that it has provided significant help in solving complicated cases.

In addition, the work of the children's helpline 116 111 is now organised by the Child Protection Department of the Social Insurance Board. This will help ensure that telephone counsellors are well prepared and that, if the children's helpline receives information from a child in need, it will be passed to a local child protection worker.

The Child Protection Act explicitly prohibits the physical punishment of a child, as well as punishment of a child in any other manner which endangers his or her mental, emotional or physical health. The local government or the Social Insurance Board may separate a child from family for up to 72 hours, during which the court shall decide on the separation of the child from the family by way of preliminary legal protection.

According to the report, alternative care forms include not only substitute homes and foster families, but also guardianship families who provide family-based care. The number of children in alternative care in Estonia has decreased from 2,731 children in 2011 to 2,484 children in 2013.

At the end of 2013, there were 1,026 children in substitute homes, 226 children were in foster families and 1,332 children were in guardianship families. According to the report, children who are separated from their families and directed to alternative care, are more likely to be subject to the family-based care form (a total of 1,558 children live in foster families and guardianship families).

Although more children are in family-based care than in welfare institutions, the progress has been unsatisfactory according to the report. However, the Draft Act of the Child Protection Act is scheduled to be enforced on 1 January 2016 and preparations for implementing the Act are already underway. The Act will bring about significant changes in the activities of childcare institutions, including substitute homes, and in the monitoring of children's welfare and rights. For example, the new Act provides for a right of appeal, an obligation for children's welfare institutions to carry out periodic internal evaluation, state supervision standards and measures that local governments can implement to protect children during family interventions, and measures concerning a child in a substitute home. The Committee requests that it be kept up to date concerning potential developments in this field.



In 2013, the Ministry of Social Affairs completed an analysis of the field of alternative care with the aim of evaluating the development needs of the Estonian alternative care system and of its organization. In 2015, the analysis was followed by the compilation of a strategy document of the field titled 'Green paper on alternative care for children without parental care', which set out three strategic goals: increase the share of family-based care, improve the quality of alternative care as a whole and enhance the ability to live independently. In order to achieve the goals, it was necessary to amend the services, their financing and their organisation.

The Children's Protection Act, which entered into force on 1 June 2016, led to the transfer of organising adoption from county governments to the Social Insurance Board, and a nationwide overview of adoptive parents was created. Also created was the obligation to conduct internal evaluation of children's welfare institutions.

As of 1 January, 2018, amendments to the Social Welfare Act came into force, which were based on the goals outlined in the Green paper on alternative care, including the need to increase family-based care. The amendments were also basis for restructuring existing services, and the funding and organisation of services. Important changes:

- transformation of existing services in the field of alternative care into two separate services, one targeted to children (alternative care service) and one for adults (continued care service);
- provision of services and funding to local governments with resources allocated by the state through a support fund to local authorities on the basis of a motivating factor, in order to facilitate the placement of a child, in particular, into a foster family;
- provision of alternative care services in three forms: foster family, family house (1–3 family parents) and substitute home (system of educators). Establishing the obligation, to local governments, of prioritizing a foster family for the placement of a child;
- provision of alternative care services in the short-term or periodically under the consent of a parent;
- transferring the evaluation and preparation of foster families from the local governments to the Social Insurance Board, and compiling families that have been evaluated as suitable to a national register. Creating an obligation of financial support for foster families;
- provision of continued care services for young people who have been in alternative care, in order to provide a flexible, needs-based service that would support their start in independent life and continued education.

In addition to the changes that came into effect on 1 January 2018, we will contribute to the implementation of the new system with support from the European Social Fund. We also provide support services for current service providers in substitute homes and family houses, as well as for all providers of family-based care (foster families, adoptive parents and guardians) as well as young people who are starting independent life after alternative care. We are planning to provide broader awareness raising activities for the public, developing training and supervision in the field, as well as a system to provide family-based care for children in need of short-term crisis care and children with behavioural problems.

At the end of 2016, there were 2,588 children in alternative care, 61% of whom were in family-based care and 39% in institutional care. There were 191 children cared for in a family; 1,395 children under the care of a guardian; and 1,002 children in the substitute home service.

At the beginning of 2014, the Ministry of Social Affairs proposed that work with juvenile offenders be transferred from the area of government of the Ministry of Education and Research to the area of government of the Ministry of Social Affairs. This amendment is part of a reform of child protection conducted Estonia aimed at ensuring the protection of children's interests and rights. The Committee requests that it be kept up to date concerning potential developments in this field.

In 2014, cooperation of the Ministry of Social Affairs, the Ministry of Justice, the Ministry of the Interior, the Ministry of Education and Research and other parties began to amend the legislation and practice of dealing with children who have committed offences. In 2017, the Ministry of Social Affairs and the Ministry of Justice submitted drafts to the Government of the Republic which came into force on 1 January 2018. With the enforced Acts, the work of Minor Committees was discontinued and the practice of working with children who have committed offences was made more child-friendly and more compliant to international recommendations. Misdemeanour and criminal proceedings explicitly stated that the punitive approach should be the last resort and priority should be given to non-punitive measures (measures that help children and follow the principles of restorative justice). Access to conciliation services and social rehabilitation services was expanded for children who have committed an offence. Restrictions on the freedom of the child, which have previously been applied on the basis of criminal proceedings, are now conducted, as a result of civil proceedings, as a closed childcare institution service, in order to ensure that the child's freedom is restricted only if it is necessary in terms of the child's need for assistance and is in the best interest of the child. The Social Welfare Act stipulates that the purpose of closed child care institution service is to support the child's psychological, emotional, educational and cognitive development in order to achieve lasting changes that will enable the child to successfully cope in a normal environment after the restriction on freedom without behaviour that would harm his or her life, health and development and the life and health of other persons.

In addition, from 2014, young people (aged 11–18 years) with complex problems, including offenses, are offered Estonia, an evidence-based multidimensional family therapy (MDFT) service. As of 2018, this service has been provided with permanent financing from the state, which will enable the provision of the service for up to 200 children and families per year in the coming years.

The Committee points out that Article 17 ensures the right of children and young persons, incl. unaccompanied minors, to social, legal and economic protection, incl. medical assistance (International Federation for Human Rights (FIDH) vs France, complaint No. 14/2003, decision regarding revision, September 2004, section 36). Article 17 also touches upon protection and special aid from the state for children and young persons who are unaccompanied or have been temporarily or definitively deprived of their family's support.

States must take necessary and appropriate measures to ensure that such minors receive the necessary care and assistance, and protect them from neglect, violence or exploitation that pose a serious threat to their fundamental rights, such as the right to life, psychological and physical

integrity, and respect for human dignity (Defence for Children International (DCI) vs Belgium, complaint No. 69/2011, decision regarding revision, 23 October 2012, section 82).

The Committee enquired information on what kind of assistance is provided to children in abnormal situations to protect them against negligence, violence or exploitation.

Unaccompanied minors in Estonia are ensured provision of medical assistance and child protection just as other children in need of help. Upon entry to the country, they are sent, by the Social Insurance Board, to SOS Children's Village for alternative care service and they shall receive alternative care service on the same grounds as other children in Estonia. In addition, unaccompanied minors are provided with medical examinations and necessary health services, essential translation services and Estonian language instruction, and other essential services.

## ***Subsection 2 – Provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools***

### General regulation

The legal framework has not changed when compared to the previous reporting period.

As of 2010, the Regulation of the Minister of Education and Research applies to the general conditions and procedure for admitting a student to school and to the procedure for exclusion from school. Its section 5 (transfer of a student from one school to another) and 6 (continuation of studies of a student arriving from a foreign educational institution) stipulate relevant procedure. The class in which the student continues to study is determined by the school staff council, taking into account the age of the student and the education received so far, in the case of a person arriving from a foreign educational institution if he or she has not studied in Estonia before, and in the case of a person who does not have evidence of completed studies.

### Statistics

**Table 1.** Number of school-leavers of basic education (subject to the obligation to attend school at least at the start of the academic year), 2014/2015–2016/2017 academic years.

	2014/2015	2015/2016	2016/2017
Number of school-leavers	232	229	215
Percentage of school-leavers, %	0.2	0.2	0.2

Source: Estonian Education Information System

In its previous conclusion (Conclusions 2011) the Committee asked about the situation of Roma children in schools. According to the report, there were 32 Roma students attending general education schools in the school year 2013/2014, including 6 students in simplified study programmes in ordinary schools as well as 5 students attending the 3rd stage of study in a specialised school (upon the parent's petition and the counselling committee's recommendation). The Committee notes that in 2014/2016 a project to improve the quality of counselling for Roma students will be launched. The Committee wishes to be informed of the results of this project.

According to the report, enrolment in the special needs school can only take place with a decision of the counselling committee, at the approval of parents. The Committee asks how many children are enrolled with this school and what are the 'special needs' that are taken into account. The Committee notes from the report that the Ministry of Education and Research is supporting a study called 'Roma in the Estonian Education System – issues and solutions'. According to the report, based on the results of this study, it will become possible to elaborate the necessary measures to improve the schooling for Roma. The Committee wishes to be informed about these developments.

In Estonia, children of Roman origin study in Estonian-language schools; in rarer cases, also in Russian-language schools; therefore, Roma children learn side by side with students who speak

Estonian or Russian as their native language. There are no schools or classes in Estonia where only Roma children can study. Roma children study in the context of common national curricula and are not separated from other students.

The Estonian Education Information System specifies a student's home language or native language according to statement from the child's parent, thus establishing that one's native language or first language is the free choice of a person. Consequently, data in the Estonian Education Information System and data in the Population Register do not match in terms of ethnicity of the Roma. The results of a survey, sponsored by the Population Register and the Ministry of Education and Research and supported by the North Estonian Roma Association, show that as of 2010, there were 90 children in Estonia, whose parent or parents were of Roma origin, subject to the duty to attend school.

In Estonia, the transfer of children to specialized schools takes place on the basis of medical indications and can only take place with the consent of the parent or legal guardian and on the basis of a medical evaluation. Directing Roma children to schools for children with special educational needs or to study on the basis of a simplified curriculum in basic school, is conducted on uniform grounds, i.e. identifying the special educational needs of Roma children and recommending the necessary measures is conducted based on the same grounds as in the case of children whose home language is Estonian or some other language. Identifying special educational needs and the necessary support measures, including directing a child to a school for children with special educational needs, may also be initiated by a parent, with the consent of the parent, also by an educational institution.

The data confirms that those students of Roma origin who have been recommended by the study advisory committee to study on the basis of a simplified curriculum, i.e. students with slight learning disabilities, have already received this recommendation when starting grade 1 and their curriculum will not be changed during basic school.

To support the advancement of Roma children and Roma students, the Ministry of Education and Research has planned various measures, such as relevant in-service training courses for members of advisory committees and counselling centres.

According to the data provided by the Estonian Education Information System in November 2017, 55 pupils in general education schools have identified Roma as their home language.

In 2011, the Committee adopted the Statement of interpretation on Article 17§2 where it held that access to education is crucial for every child's life and development. The denial of access to education will exacerbate the vulnerability of an unlawfully present child. The States are required to ensure that children unlawfully present in their territory have effective access to education in keeping with any other child. The Committee asks whether irregularly present children have access to education.

All children in Estonia are guaranteed the right and access to (basic) education. Section 27 of the Basic Schools and Upper Secondary Schools Act (Admission of students to school), subsection 1 stipulates that a basic school is required to admit all persons subject to the duty to attend school who have expressed such desire and for whom the school is the school of residence. Parents are free to choose a school for a person subject to the duty to attend school, where the desired school has vacant student places.

A separate regulation of a minister has been enforced concerning the admission of a student to school<sup>7</sup>. Section 3 of the regulation explains the terms and conditions of admission of a student to school, subsections 3 and 7. Section 6 provides guidelines for the continuation of studies of a student arriving from a foreign educational institution. As subsection 3 stipulated, if necessary, an individual curriculum shall be compiled for the student, so that he or she could bring their knowledge to the same level as their peers/classmates.

---

<sup>7</sup> <https://www.riigiteataja.ee/akt/13359746>

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

### ***Subsection 1 – Immigration assistance and information***

#### General measures

From 2015 onwards, foreigners are offered a Welcoming Programme in order to support the adaptation process. The Welcoming Programme is a free service to help foreigners arriving in Estonia get the basic knowledge and skills necessary for coping in Estonia as quickly and conveniently as possible – information on the acquisition and extension of residence permits and rights of residence, participation in the labour market and education, benefits and services, Estonian language skills, etc. A separate training module has been developed for foreigners who have arrived in Estonia for the purposes of work and entrepreneurship, which provides an overview of working in Estonia, how to start a business or how to do business, the labour law, the employee's rights, but also topics related to the tax system and work culture. The Welcoming programme is open to all foreigners who have legally resided in Estonia for less than five years.

Foreigners who have come to Estonia in order to work, study or engage in entrepreneurship, their family members, but also foreigners permanently residing in Estonia need information about the legal grounds and identity documents for temporary stay and residence in Estonia. In order to ensure the availability of appropriate and professional services, high-quality and reliable information, in 2017 the Ministry of the Interior developed, in cooperation with the Police and Border Guard Board, a free counselling service aimed at foreigners. Within the framework of the counselling service, the advisors of Police and Border Guard Board provide personal and proactive legal counsel, providing the client with up-to-date, accurate and reliable information, and aim to find the most suitable and convenient solutions to the client's problems and questions. Within the framework of the counselling service, foreigners receive complex counsel on migration, incl. family migration (residence permits, rights of residence and stay, long-term visas), citizenship and identity documents, and requirements related to the recruitment of foreigners. The counselling service is provided in Estonian, English, and Russian by phone and e-mail, at the reception of the adviser, and via Skype. It is also possible to use the document ex ante verification service. Advisers conduct the offered training sessions for different interest groups and participate in the information days and other events organised by the partners. Within the framework of the counselling service, the website of the Police and Border Guard Board will be updated. The strategic basis for the development of the counselling services is the Balanced Citizenship and Migration Policy Programme of the 'Internal Security Development Plan 2015–2020'. The counselling service is related to the Ministry of Economic Affairs and Communications' 'Work in Estonia – Action Plan for the Involvement of Foreign Specialists in Estonia 2015–2016'. The counselling service is funded by the European Union's structural funds, the European Social Fund, and the state budget funds for the project 'Adaptation Programme for New Immigrants'.

In 2017, the Police and Border Guard Board conducted training sessions on the early detection and prevention of radicalisation (a total of 38 academic hours, and 107 PBGB officials trained), as well as training on responding to sudden events related to radicalisation (a total of 26 academic hours, and 60 participants).

#### Statistics or other relevant information

#### ***Table. Offered counselling service in March–December, 2017***

	<b>calls</b>	<b>e-mails</b>	<b>meetings</b>	<b>Skype</b>	<b>training</b>	<b>Total</b>
<b>Total</b>	<b>5,583</b>	<b>3,912</b>	<b>351</b>	<b>60</b>	<b>40</b>	<b>9,946</b>

Source: Police and Border Guard Board

**Table. Participation in the Welcoming Programme 2015–2017**

	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>TOTAL</b>
Language training	<b>59</b>	<b>528</b>	<b>720</b>	<b>1,307</b>
Work and entrepreneurship	<b>84</b>	<b>240</b>	<b>160</b>	<b>484</b>
Basic module	<b>64</b>	<b>250</b>	<b>173</b>	<b>487</b>
Family life module	<b>54</b>	<b>112</b>	<b>75</b>	<b>241</b>
Studying	<b>53</b>	<b>52</b>	<b>58</b>	<b>163</b>
Research	<b>32</b>	<b>21</b>	<b>23</b>	<b>76</b>
International protection	<b>7</b>	<b>65</b>	<b>59</b>	<b>131</b>
Children and young people	<b>6</b>	<b>10</b>	<b>11</b>	<b>27</b>
<b>Total of completed trainings</b>	<b>359</b>	<b>1,278</b>	<b>1,279</b>	<b>2,916</b>

Source: Ministry of the Interior

The Committee notes from the 2009 ECRI report that racism and discrimination are identified as problems within the media, and that there is little action taken by the state against such issues. The Committee recalls that statements by public actors are capable of creating a discriminatory atmosphere. Racist misleading propaganda indirectly allowed or directly emanating from the state authorities constitutes a violation of the Charter (Centre on Housing Rights and Evictions (COHRE) v Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010). The Committee stresses the importance of promoting responsible dissemination of information. It considers that in order to combat misleading propaganda, there must be an effective system to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere. The Committee asks what monitoring systems exist to ensure the implementation of anti-discrimination regulations. The Committee notes from the report that media coverage of issues surrounding migration was encouraged through the 'My Estonia' project. The Committee asks what other measures are being taken to tackle the issue of prejudice in public life.

At the initiative of the Estonian Public Broadcasting (ERR), and the Government Office, and with the support of the Asylum, Migration and Integration Fund, two projects were launched in 2017 with a view to raising awareness, tolerance and positive attitude towards third-country nationals residing in Estonia, including displaced persons, and those displaced under the European Migration Plan. Within the framework of the cross-media programme 'LIVEstonia. I Live Here', a cross-media programme was created, which included, among other things, a television series of third-country nationals



residing in Estonia (24 episodes), a website for the programme with television and radio broadcasts, and other original materials. The website featured human interest stories about the third-countries' nationals who had appeared in Vikerraadio's broadcast series 'I Live Here'. With the support of the European Social Fund, media activities that support attitudes towards social integration were financed. In September 2017, ETV and ETV+ introduced a six-episode travel series 'Our Estonia', in which a Russian-speaking presenter introduced the places most important to them in Estonia. The series was accompanied by several initiatives on social media. On average, about 84,000 people saw each episode. In at least 15 minutes, the series reached 288,000 viewers – 278,000 Estonians, and 10,000 of other nationalities.

In 2017, the Integration Foundation carried out an information campaign 'Valuing public sector organisations with a diverse workforce and providing information on career opportunities in the public sector for people with a mother tongue other than Estonian', the content and purpose of which was to encourage young people with a mother tongue other than Estonian to apply for work in the public sector, and also explain why it is worthwhile to link their professional future with Estonia. The campaign also explains to the public sector managers why it makes sense to employ non-Estonian speakers.

<https://karjeravestonii.ee/>

The Committee recalls that States have an obligation to take measures or undertake programmes to prevent the dissemination of false information to departing nationals, as well as to prevent the misinformation of foreigners wishing to enter the country. Authorities should take action in this area as a means of preventing illegal immigration and trafficking in human beings (Conclusions 2006, Slovenia). The Committee asks for complete and up-to-date information on any measures.

In order to prevent and reduce illegal immigration and to offer foreigners and the persons inviting them with relevant and reliable information about the conditions of arriving and staying in Estonia, the Ministry of the Interior, in co-operation with the Police and Border Guard Board, developed a free migration counselling service in 2017. Within the framework of the counselling service, the advisors of Police and Border Guard Board provide personal and proactive legal counsel to foreigners and their inviter, providing the client with up-to-date, accurate and reliable information, and aim to find the most suitable and convenient solutions to the client's problems and questions. Within the framework of the counselling service, foreigners receive complex counsel on migration, incl. family migration (residence permits, rights of residence and stay, long-term visas), citizenship and identity documents, and requirements related to the recruitment of foreigners. Additionally, training sessions are provided to employers within the framework of the counselling service in order to provide them with relevant and reliable information about the conditions for the employment of foreigners in Estonia.

The Committee notes that the Estonian Integration Plan 2008-2013 provided for the teaching of the Estonian language to new immigrants, which is implemented through MISA. Teaching of the language was also provided during the reference period in the context of the "Our People" adaptation programme. This programme included information about the rights of residents and migrants, cultural and historical learning opportunities, and 364 hours of Estonian language classes. These measures were designed to improve the socio-economic coping abilities of new migrants. The Committee notes that during the period 2010 – 2013, a total of 226 migrants availed themselves of the programme according to MISA figures provided in the report. The Committee notes that the number of migrants participating was relatively low compared to the total immigration figures, and asks what reasons applied for the discrepancy in uptake.

The target group of the first adaptation programme was relatively narrow: new immigrants (whose numbers in that period were considerably lower than the number of the current immigrants from third countries to Estonia) and people with undetermined citizenship.

During this period, the main type of immigration was family migration (almost 40%), and, to a lesser extent, migration for study and work purposes. The labour migrants who extended their residence permits were the minority at the time, which might explain their lack of interest in participating in such a programme. Those who arrive in Estonia within the framework of family migration are certainly receive help in terms of adapting and language learning from their family members, who were mostly Estonian citizens or permanent residents of Estonia, and thus generally well-adapted to the life here.

## ***Subsection 2 – Departure, journey and reception***

### General measures

Since 2010, the International Organization for Migration has implemented Voluntary Assisted Return and Reintegration in Estonia (VARRE) (<http://www.iom.ee/varre/>), funded by the EU Asylum, Migration and Integration Fund and the Ministry of the Interior. The programme offers assistance in preparing for returning (counselling, travel documents, and / or buying airline tickets) as well as reintegration support. Reintegration support is a benefit in kind (a service) and it will only be available after the foreigner has returned to their country of origin.

### Statistics

**Table. Number of foreigners supported by the VARRE programme 2015–2017**

2015	2016	2017
26	40	82

The Committee notes the provision of financial support for returning Estonians and for incoming foreigners. In 2013, 97 returning Estonians and 36 foreign nationals were supported, with financial contributions totalling 74,835 euros and 18,000 euros respectively. The Committee asks what the criteria are to qualify for such support. The Committee asks for details on the process of applying for and receiving this support, and for how long the support may be provided.

The benefit is paid to those who have reached the retirement-age, provided that their monthly income is below the national pension rate (189.31 euros in 2018). In order to receive the benefit, an application must be submitted to the Social Insurance Board with the relevant documents.

Estonian citizens or persons of Estonian nationality must provide a document proving their citizenship or nationality.

Foreigners of Estonian nationality must provide a document stating they have a valid residence permit or right of residence or, in the absence thereof, a written proof of their legal residence in the Republic of Estonia by the competent authority.

Spouses of Estonian citizens or Estonian nationals must submit a marriage certificate and a document certifying the spouse's citizenship or nationality.

Foreigners whose who have a parent that is an Estonian citizen or an Estonian national must present a birth certificate and a document certifying the citizenship or nationality of their parent.

Parents of Estonian citizens or Estonian nationals must submit their child's birth certificate and a document certifying the child's citizenship or nationality.

The benefit will be paid as long as the person meets the conditions for obtaining it.

With respect to emigration, MISA also provides financial support. A remigration allowance is available to foreign nationals who have lived in Estonia for 10 years or longer and wish to cancel their residence permit and move permanently to another country. The Committee asks for details of the purpose of this allowance, whether any other criteria apply, and information on its amount.

The maximum amount of the one-off benefits paid by the Integration Foundation is 2,000 euros. The benefit is meant to mitigate the costs of return. The return support can be applied for by Estonian citizens or ethnic Estonians with a residence permit in Estonia, who:

as a rule, have emigrated from Estonia at least 10 years ago or were born abroad;

need support in order to return to Estonia due to their economic and social status, young people under the age of 30 who have completed both Master's and Doctoral studies abroad do not have to have lived abroad for 10 years in order to receive the benefit.

### ***Subsection 3 – Cooperation between the social services of the countries of emigration and immigration***

The new Social Welfare Act entered into force on 1 January 2016. According to section 3 of the Social Welfare Act, the following principles are used in the provision of social welfare assistance:

- 1) primarily based on the needs of the person;
- 2) preference is given to support measures aimed at finding opportunities that improve the capacity of a person to organise their life as independently as possible;
- 3) the person is advised in the selection and adaptation of the support measure and, if necessary, assisted in its use by a qualified specialist;
- 4) the effectiveness of the implementation of the support measures is based on the needs of the person and, where appropriate, the family and community;
- 5) the person in need of support and, where appropriate, their family members, shall be involved at all stages of the assistance, provided the person has given their consent;
- 6) support measures shall be ensured in the best possible way for the person.

The provider of social services must take into account generally accepted quality principles in the provision of social services: person-centredness, empowerment, orientation towards outcomes, need-based approach, comprehensiveness, protection of personal rights, inclusion, employee competence and ethics, and good organisation and good governance of the organisation.

Every person staying in Estonia has the right to receive emergency social assistance if necessary. Emergency social assistance ensures at least food, clothing and temporary accommodation. Emergency social assistance is provided to a person until they are no longer in a socially disadvantaged position due to their loss or lack of livelihood.

Thus, foreigners living in Estonia on the basis of a residence permit or a right of residence are entitled to receive all social services and social benefits equally with Estonian citizens living in Estonia. If a person does not have a legal basis for staying in Estonia or is staying in Estonia temporarily, for example, on a basis of a visa, they are entitled to emergency social assistance.

Cooperation with the social services of other countries takes place on a case-by-case basis, involving other institutions, if necessary.

## ***Subsection 4 – Equality in terms of employment, the right to organise, and accommodation***

### **Salary and other employment and working conditions**

#### Legal regulation, measures for the implementation of the regulation

**Persons with a different mother tongue than Estonian are prevented from entering the labour market** by inadequate or incomplete knowledge of the Estonian language, insufficient knowledge of the state and the labour market, social networks that are separate from population with native background, education that is non-compliant with the needs of the labour market, and compartmentalised ethnicity-based labour collectives. There is also a clear regional and sectoral component in the development of the labour market situation with regard to people of other nationalities.

**The number of unemployed** decreased in the second half of 2013–2015 more rapidly among non-Estonians than among Estonians, by 10,500 and 6,000, respectively. In 2013, the difference in the rate of unemployment among the two groups was 1.82 times, in 2015 it decreased to 1.48 times, exceeding the target set in the development plan Integrating Estonia 2020. **The employment rate** increased more rapidly among Estonians than among residents of other nationalities compared to the results of 2013: in 2013, 63% of Estonians and 60.3% of residents of other nationalities were employed; In 2015, the corresponding figures were 66.7% and 61.8% respectively.

In 2017, the situation of residents of other nationalities improved in the labour market: the number of employed increased and unemployment decreased, but in comparison with Estonians, both the gap between the two ethnic groups with regard to employment gap and unemployment gap increased. In 2016 the unemployment rate was 5.5% for Estonians and the unemployment rate for residents with other mother tongues 9.7% (a difference of 1.76 times), whereas in 2017 the difference was twofold (Estonians 4.4% and other nationalities 8.8%). In 2016, 67.6% of Estonians and 61.4% of the residents of other nationalities were employed; in 2017, the indicators were 69.6% and 63.0%, respectively.

According to Statistics Estonia, the unemployment rate has remained the highest in Ida-Viru County. The region's unemployment rate can be explained by economic difficulties in the oil shale sector. In 2016, the provision of additional labour market services under the European Globalization Adjustment Fund project was initiated for those who lost their jobs in the Ida-Viru County mass layoffs during 01.08.2015–01.05.2016. Both those Estonian residents that are unemployed and employed can participate in Estonian language training, and it is also possible to participate successively in several courses at different levels of language proficiency. The purpose of the support is to promote the creation of jobs in Ida-Viru County, encourage employment, and reduce the high unemployment rate in the region.

In April 2017, the Parliament adopted **amendments to the Citizen of the European Union Act and the Equal Treatment Act**, which aims to ensure consistency with the Directive 2014/54/EU of the European Parliament and the Council on measures facilitating the exercise of rights conferred on

workers in the context of freedom of movement for workers. The directive and its transposing legislation are intended to enable improved and more uniform application of the rights of workers from EU Member States and their family members who are EU Member State or third country nationals, and to ensure measures against discrimination based on the nationality of an EU Member State. The amendments came into force in May 2017.

According to the amendments to the Citizen of the European Union Act, regardless of their citizenship, workers and officials who are citizens of a member state of the European Union (EU) or of the European Economic Area (EEA) must be treated equally with Estonian citizens in the following areas: 1) access to employment; 2) conditions of employment and work, in particular as regards remuneration, termination of employment, health and safety at work, and, when becoming unemployed, reinstatement or re-employment, and appointment to a position or dismissal; 3) access to social and tax advantages; 4) membership of trade unions and eligibility for workers' representative bodies; 5) access to training; 6) access to housing; 7) access to education, apprenticeship and vocational training for the children of workers; 8) assistance afforded by the employment offices. In order to ensure the protection of the rights, it is specified that a worker or official who is a citizen of a member state of the EU or of the EEA and members of his or her family who consider that they have suffered or are suffering from unjustified restrictions and obstacles to their right to free movement or who consider themselves wronged by a failure to apply the principle of equal treatment to them, may have recourse to any legal remedy on the same grounds and to the same extent as Estonian citizens.

Amendments to the **Equal Treatment Act** expanded the competence of the Gender Equality and Equal Treatment Commissioner, stipulating that the Commissioner also acts as a contact point for cooperation between the Member States of the European Union, in order to facilitate the exercise of the right to free movement of the workers who are citizens of a Member State of the European Union and of the European Economic Area, and of their family members.

In order to improve the legal protection, the Ministry of Social Affairs has also prepared an **amendment to the Equal Treatment Act, which extends the anti-discrimination protection provided by this law** on the basis of disability, age, religion or beliefs and sexual orientation beyond the working life. The aim of the amendment is to harmonise the scope of application of the Equal Treatment Act with the protection provided by the law on the basis of nationality (ethnicity), race or skin colour, so that, in addition to working life, a more specific prohibition of discrimination, in the case of all the characteristics, would also include social protection, (including social security and health care) and the provision of social benefits, the acquisition of education and access to goods and services offered to the public (including housing). The amendment would also extend the competence of the Gender Equality and Equal Treatment Commissioner. There are also plans to better ensure the independence of the Commissioner. To this end, it is planned to change the appointment procedure for the Commissioner and to specify restrictions on activities of the Commissioner during his or her term of office.

Measures for the implementation of regulations

In order to help integrate people of other nationalities into the labour market, the supply of labour market services based on individual needs is continued. In 2014, the labour market services of the Unemployment Insurance Fund were used by 15,785 persons with a different communication language than Estonian, 16,913 persons in 2016, and 18,121 unemployed persons in 2017. The unemployed, whose main language of communication is not Estonian, were most active in participating in labour market trainings, career counselling and job search workshops.

In 2014, an **action plan ‘Development of language learning for adults with other mother tongue or home language than Estonian 2015–2018 (2020)’**, endorsed by the decree of the Minister of Education and Research on 30 January 2015, was developed under which activities supporting four measures are being funded and developed during this period: providing Estonian language learning opportunities for people who work in the public sector and have insufficient Estonian language proficiency and weaker competitiveness; reimbursement of language learning expenses; creating conditions in public and third sector organisations for supporting the acquisition of the official language and integration of members of target groups and stakeholders in public and third sector organisations; development of a quality assurance and supervision system for adult Estonian learning and the creation of a digital learning resources for the acquisition of Estonian, including extending the responsibility of the Language Inspectorate.

As regards to the **digital learning resources**, the creation of the ‘Keeletee’ (Language Road) electronic learning materials for B1–B2 level was continued, which are suitable for those who have learned Estonian at the 0–A2 level in the ‘Keeleklikk’ (Language Click) language learning environment. The courses are available at [www.keeleklikk.ee](http://www.keeleklikk.ee) and <https://www.keeletee.ee/>.

In the framework of the **programme for the integration of the labour market and learning**, the Ministry of Education and Research prepared the following activities in 2014: for students who have acquired basic education in a language other than Estonian, additional Estonian language teaching and apprenticeships in the Estonian-language environment are offered; the implementation and development of a multicultural learning system for vocational education institutions with the aim of supporting vocational schools in transitioning to Estonian-language instruction and managing a multilingual and cultural learning group; an additional academic and professional Estonian language education for students acquiring higher education with the aim of helping students whose mother tongue is not Estonian but who are studying in Estonian to prepare for academic studies.

Within the framework of linguistic cooperation projects, **Estonian language and professional language proficiency courses** are offered in schools at different levels of education (general, vocational and higher education) with the aim of contributing to the quality assurance of language learning at different levels of education and the enrichment of informal language learning environments, as well as to public and third sector organisations in order to support their members, including people with special needs, e.g. hearing or visual impairments, in learning the national language and integration. The activities include language courses and clubs, activities for increasing the readiness for learning, as well as other similar regular, group-based non-formal learning activities lasting at least for six months.



Within the higher education programme, **the acquisition of Estonian language is supported for students with other mother tongue than Estonian** during their higher education studies, which ensures better access to higher education provided in Estonian and supports coping with the studies. This is a continuous activity.

Due to the results of the 2015 Integration Monitoring of Estonia and the goals of the Government of Estonia's action programme for 2015–2019, the Ministry of Culture, in cooperation with the Ministry of Social Affairs and the Integration Foundation, commenced the **development of activities that support the valuing of public sector organisations with a diverse workforce** and the **development of activities that support the career opportunities of persons with a different mother tongue than Estonian**. For this purpose, information activities and a social campaign on the career prospects of people with a different mother tongue in the public sector were carried out. In 2016, a series of information seminars were carried out, informative materials were compiled for employers and non-Estonian working-age residents of Estonia.

In order to improve the coping abilities of people with insufficient language skills in the labour market, **opportunities for language training and internship** were created with the support of the European Social Fund in areas with the greatest need. Supported language learning activities are part of the Ministry of Education and Research's Lifelong Learning Strategy's 'Programme for closer integration of the labour market and learning'.

In order to reduce discrimination in the labour market, active measures are taken to improve employers skills, awareness and willingness to act. In cooperation with the Estonian Human Rights Centre, the Ministry of Social Affairs has developed a concept for a **Diverse Workplace Label**. Activities related to the Label support the increase in the diversity of the working environment, taking into account the age, gender, ethnic background, mother tongue, race, religion, state of health (incl. disability and reduced working capacity), and sexual orientation. The purpose of the label is to develop, by means of consultation and employer network activities, a tool for improving the quality of the working environment, and for the conscious management of diversity within the organisation, supporting observance of the principle of equal treatment. In order to qualify for the label, the organisation must compile a diversity plan that allows the organisation's diversity situation to be assessed and to set goals for implementing change. The first labels were issued in spring 2018.

The Committee asks for information on the implementation of the Equal Treatment Act and the Employment Contracts Act, incl. monitoring data, and asks whether there are complaints about employment conditions or pay related to discrimination of immigrants.

In 2014–2017, no appeals with regard to foreign workers and employment relationship were made to the Equality Commissioner.

The Committee has asked whether immigrants and citizens are able to receive vocational training on the same basis in Estonia in order to improve the skills and capabilities of workers.

Estonia has adopted the amendment on the Enrolment of Students at Vocational Educational Institutions Act (effective from 1 September 2018) in 2017/2018, with which the provisions that could be considered discriminatory with regards to the access to learning for the target group of immigrants have been removed. Currently, the admission requirements for both citizens and immigrants when entering vocational training are uniform. In 2017, Foundation Innove also completed the enrolment process guide, in which dealing with new immigrants has been covered as a separate topic. A seminar-training supporting students with the enrolment process was also carried out, and it is planned to be continued in 2019. Among other things, vocational education institutions have the right to apply RPL (taking previous studies and work experience into account) in the enrolment process to assess the person's ability to study in vocational training. It also allows for the flexible enrolment of persons who do not have evidence of education (clause 29 (3) 2) of the Vocational Education Standard).

In the case of new immigrants, workplace-based learning has essentially not been implemented in the formal education of vocational training. As of 1 September 2017, in order to be enrolled in vocational training, a vocational exam must generally be passed, which requires good language proficiency and the ability to learn and acquire knowledge in a specialised language. There has been participation in adult-in-service training courses, where there are no language requirements for concluding the studies.

### Statistics

**Table 7:** Employment rate (aged 15–74), 2014–2017 (%)

	2014	2015	2016	2017
Native population	64,1	66,3	67,0	69,0
Immigrant population	59,3	61,2	60,6	61,8
..first generation of immigrant population	52,7	55,6	55,6	56,4
..second generation of immigrant population	67,0	67,8	66,5	68,0

Source: Statistics Estonia

According to Statistics Estonia in 2017 the employment rate of native population aged 15-74 was 69,0% and the employment rate of immigrant population was 61,8%.

### **Trade union membership and the use of privileges derived from collective bargaining**

#### Legal regulation

In 2014, Estonia provided information to the Committee on the rights of trade union members who are migrant workers received through collective bargaining. Since the submission of the information, no changes have been made to the relevant regulation.

The Committee has asked what kind of legal and practical measures have been taken to ensure the equal treatment with regard to employment, trade union membership and collective bargaining.

Employment is covered by the first part of subsection 4 of Article 19. We note that legislation on trade union membership, participation in the negotiation of collective agreements and the use of rights derived from collective agreements continue not to differentiate between migrant workers and local workers.

According to the Working Conditions of Employees Posted to Estonia Act, a posted employee is a natural person who usually works in a foreign state on the basis of an employment contract, and whom the employer posts to work in Estonia for a specified period of time for the provision of a service. A contract concluded abroad with regard to employment is deemed to be an employment contract if it complies with the provisions of the Estonian Employment Contracts Act.

Irrespective of the choice of law applicable to the employment contract, the conditions provided for in the subsection 5 of the Working Conditions of Employees Posted to Estonia Act must be ensured, including:

- 1) working time;
- 2) rest time;
- 3) time off for prenatal examinations;
- 4) remuneration and compensation for overtime;
- 5) the duration of annual leave;
- 6) equal treatment and equal opportunities.

If the provisions of a foreign law applicable to an employment contract of a posted employee sent to Estonia are more favourable than those provided for in Estonian law, the provisions of the foreign law apply to the employee. The posted employee is subject to the Occupational Health and Safety Act.

**Table 9:** Trade union membership in 2017

	Trade unions members	Total number of employees	The share of trade union members of all employees
Native population	21 000	472 900	4,4%
Immigrant population	6 600	117 900	5,6%
..first generation of immigrant population	3 300	57 700	5,7%
...second generation of immigrant population	3 300	60 200	5,5%

Source: Statistics Estonia, Labour Force Survey

## **Housing**

### Legal regulation and measures for implementation

In 2014, Estonia provided information to the Committee on accommodation for migrant workers. Since the submission of the information, no changes have been made to the relevant regulation.

According to the Social Welfare Act, local government bodies are obliged to provide a dwelling for a person or family who is not capable of self-sufficiency due to their socio-economic situation and is unable to provide it for themselves or their family. The local government may provide the person in need with a dwelling owned by a local government or use the opportunities offered by the free rental market by renting an apartment from the free market and distributing the dwelling for the person in need. The procedure for granting and using social housing shall be established by the rural municipality or city council. Subjects entitled to social services (incl. housing) and also social benefits (incl. subsistence and need-based family benefits) and other assistance are permanent residents of Estonia, foreigners residing in Estonia under the residence permit or right of residence, and beneficiaries of international protection in Estonia.

Every resident of Estonia is entitled to emergency social assistance. Emergency social assistance must ensure at least food, clothing and temporary shelter. Estonia does not lay down specific conditions for the improvement of housing conditions on the basis of different nationalities or ethnicities. Everyone has equal conditions and opportunities for receiving assistance or benefits, including in aspects related to housing.

### Statistics

There have not been any complaints filed to the Commissioner for Gender Equality and Equal Treatment in relation to discrimination concerning the city or rural municipality's social housing.

## ***Subsection 5 – Equality regarding taxes and payments***

### ***General regulation***

The principle of equal treatment is one of the fundamental principles of the Constitution of the Republic of Estonia. According to section 12 of the Constitution of the Republic of Estonia, no one shall be discriminated against on grounds of nationality, race, colour, gender, language, origin, religion, political or other opinion, financial or social status, or other circumstances.

Section 2 of the Equal Treatment Act states, inter alia, that discrimination on the grounds of nationality (ethnic origin), race or skin colour is prohibited in the awarding of employment or service contracts, appointment or election, the establishment of working conditions, the provision of orders, remuneration, the termination or cancellation of work or services contract, and dismissal from office. According to section 3 of the Employment Contracts Act, the employer must ensure the protection of workers against discrimination, adhere to the principle of equal treatment, and promote equality in accordance with the Equal Treatment Act and the Gender Equality Act.

Compared to the information provided in the 2014 report, no changes have been made to the tax rules for migrant workers. Migrant workers legally residing in Estonia are taxed in the same way as employees who are Estonian citizens. Taxation of wages and salaries does not depend on the person's nationality, but on their residence in the particular tax year.

In Estonia, social tax, income tax, mandatory funded pension payments, and unemployment insurance payments are paid from wages.

According to section 6 of the Income Tax Act<sup>8</sup>, a natural person is a resident if his or her place of residence is in Estonia or if he or she stays in Estonia for at least 183 days over the course of a period of 12 consecutive calendar months. A natural person who is a resident pays income tax on all income received in Estonia and abroad.

A non-resident only pays income tax on the income received from an income source in Estonia. In accordance with Subsection 29 (1) of the Income Tax Act, the income received by a non-resident natural person working in Estonia (section 13, subsection 1 and 1<sup>1</sup>) is taxable in Estonia if the payer is a state institution or local government of Estonia, a non-resident or non-resident through a permanent business in Estonia (§ 7), or if the person has been employed in Estonia for at least 183 days over the course of a period of 12 consecutive calendar months. If the employee is a resident of the country with whom Estonia has entered into an agreement for the avoidance of double taxation regarding income tax, the tax agreement must be taken into consideration when calculating the tax liability.

According to the provisions of the Social Tax Act<sup>9</sup> (clause 2 (1) 1 ), the obligation to pay social tax is not dependent on whether the employee is a citizen or not. Thus, non-national migrant workers pay social tax on the basis of the same rules as citizens.

---

<sup>8</sup> <https://www.riigiteataja.ee/en/eli/504072018002/consolide>

<sup>9</sup> <https://www.riigiteataja.ee/en/eli/522012018001/consolide>

The payment of mandatory funded pension payments does not depend on the citizenship of the recipient. Payment depends on residency. According to section 6 of the Funded Pensions Act<sup>10</sup>, a natural person who is a resident is an obligated person. Therefore, the funded pension payment is not paid from the remuneration paid to a non-resident.

Unemployment insurance tax is paid on the basis of the Unemployment Insurance Act<sup>11</sup> from wages and other remuneration paid to the insured person (the term covers employees, public servants, and contractors) The citizenship of the person has no relevance in relation to paying the unemployment insurance tax.

Migrant workers, irrespective of their nationality, are treated equally in Estonia when it comes to the taxation of their earnings.

### ***Measures for the implementation of legal regulations***

The Equal Treatment Act allows individuals to turn to a court or a labour dispute committee for the resolution of disputes, and claim damages. People can also turn to the commissioner who advises and assists individuals in filing complaints about discrimination and provides opinions on possible discrimination. People also have the right to turn to the Chancellor of Justice, who resolves discrimination disputes in conciliation procedures, as the principles of equal treatment and equality are provided for in the activities of the Chancellor of Justice.

### **Statistics**

Relevant statistics are not collected in Estonia.

---

<sup>10</sup> <https://www.riigiteataja.ee/en/eli/510072018004/consolide>

<sup>11</sup> <https://www.riigiteataja.ee/en/eli/ee/509052018001/consolide/current>

## ***Subsection 6 – Family reunification***

### General regulation

In the 2010 report, the legal framework for applying for a residence permit to settle with a spouse, and settle with a close relative was introduced. In 2017, a number of significant amendments that changed the current regulation came into force.

### Residence permit for settling with a spouse

In January 2017, amendments to the Aliens Act, which abolished the requirement for a spouse to reside in Estonia for at least two years if the alien wishes to apply for a residence permit to settle with the spouse, entered into force. According to the amendments, a temporary residence permit may be issued to an alien whose spouse is an Estonian national or of Estonian-origin and residing in Estonia, or a foreigner living in Estonia on the basis of a residence permit. In order to apply for a residence permit to settle with a spouse, the spouse must have a registered place of residence and an actual dwelling in Estonia. As a specification, the requirement of a registered residence and an actual dwelling will not be applied if the spouse of the alien who has requested the residence permit, has received:

- a residence permit for entrepreneurship;
- a residence permit as a major investor;
- a residence permit for studying in an integrated bachelor's and master's programme, or in a master's or a doctoral programme, or in an applied higher education programme as an undergraduate or a fourth or fifth-level vocational training programme;
- a residence permit to work on one of the following grounds:
  - 1) working as a creative person in a performing arts institution in the meaning of the Performing Arts Institution Act;
  - 2) working as a teacher in an educational institution meeting the requirements established by Estonian law;
  - 3) scientific activity, if the alien has the relevant qualification or experience, or working as a teacher in an educational institution meeting the requirements established by Estonian law;
  - 4) professional activity as an athlete, coach, sports referee or sports worker at the invitation of the relevant sports association;
  - 5) working as a member of the management body of a legal person registered in Estonia for the purpose of performing management or supervisory functions;
  - 6) working as an expert, counsellor or consultant if the alien has the relevant professional training necessary for working in the field;
  - 7) working as an installer of equipment or as a skilled worker if the alien has the professional training necessary for working in the field;
  - 8) working as a top-level specialist if the alien has professional training for working in the field;
  - 9) working in a start-up company.

Similarly, the requirement of residency in Estonia does not apply to a spouse who is an Estonian citizen or is of Estonian-origin, if the spouse of the alien who has requested the residence permit in case the family will be living together in Estonia. The pending amendments to the Aliens Act, which are scheduled to take effect in 2019, extend the specification of the requirement of a residence to the spouse, if the family will be living together in Estonia.

In practice, if the spouses who do not qualify for a residence permit and the specification of dwelling file the applications for a residence permit together, the spouse will be asked to register their residence, in which case the spouses may settle in Estonia together.

By the amendments that entered into force in January 2017, the period of validity of the temporary residence permit to settle with the spouse was changed. According to the amendments, the temporary residence permit is issued for settling with the spouse for a maximum of five years, but not longer than the term of validity of the temporary residence permit issued to the spouse with whom the alien will be settling in Estonia.

With the 2017 amendments, the requirement for permanent residence in Estonia was abolished and the regulation on registration of short-term leave from Estonia was cancelled, replacing it with the requirement for the purposeful use of the residence permit. As a result, the basis for refusal and invalidation of a temporary residence permit granted to a spouse, according to which a residence permit was refused or a residence permit was declared invalid if the spouse or spouses did not permanently reside in Estonia, was abolished.

### **Residence permit for settling with a close relative**

With the 2017 amendments, the requirement that the close relative, with whom the alien would be settling, must be permanently living in Estonia, was abolished. The requirement for a close relative with whom the residence permit is applied for, must have a registered residence and an actual dwelling in Estonia, continues to apply. At the same time, by the amendments of 2017, the specifications, for which the existence of an actual dwelling and registered residence of a relative living in Estonia is not required, were extended. In addition to the previously enforced bases, the existence of an actual dwelling and a registered residence are not applicable even if:

- a temporary residence permit has been issued to a close relative on the basis of section 210<sup>3</sup> of the Aliens Act;
- a close relative has a temporary residence permit for an internal transfer;
- a close relative has a temporary residence permit for entrepreneurship as a major investor.

With the amendments of 2017, the grounds for refusal or invalidation for settling with a close relative were abolished, according to which the residence permit was refused or invalidated if the close relative, or an alien, for settling with whom the residence permit had been issued, did not permanently reside in Estonia.

Additionally, with the amendments of 2017, it is now possible to automatically (i.e. without application) grant a temporary residence permit to a minor child, who was born in Estonia or who settles immediately after birth with one parent or both parents in Estonia, if the parent has a valid Estonian temporary residence permit at the time of the birth of the child.

### Implemented measures

In January 2016, simpler and more user-friendly application forms were introduced. The list of additional documents submitted with the application was also substantially reduced. Thus, the application process for residence permits was significantly simplified for both foreign workers and their family members.

Following the changes that came into force in January 2017, it is possible for all aliens who are staying legally in Estonia to apply for a visa and a temporary residence permit at the Police and Border Guard Board. Thus, for example, external staff and their family members with the right to visa-free movement or an entry visa can come to Estonia and apply here for a residence permit.

Within the framework of the migration advice service that was established in March 2017, relevant and reliable information is provided, among other things, to foreign workers and their family members with regard to the conditions of settling in Estonia. Migration advice service.



## Statistics

Table. Permanent residence permit applications and positive decisions for the purpose of family migration in 2014–2017

Basis of residence permit	2014		2015		2016		2017	
	applicat ions	pos decisions	applicat ions	pos decisions	applicat ions	pos decisions	applicat ions	pos decisions
for settling with a spouse	836	795	939	871	968	967	1071	926
for an underage child to settle with a parent living in Estonia	493	455	477	465	459	436	429	377
for an adult child to settle with a parent living in Estonia	3	0	11	3	11	4	8	0
for a grandparent or great-grandparent to settle with an adult child or grandchild living in Estonia	146	130	122	111	104	100	110	65
for a ward to settle with a guardian living in Estonia	5	7	9	8	8	6	2	2

The Committee points out that the directive expressly states in Article 3§4 that it is without prejudice to the Charter, and that it shall not affect the possibility for the Member States to adopt or maintain more favourable provisions than those required by the Directive (Article 3§5). The Committee considers that a period of one year is acceptable under the Charter, but a longer period is considered excessive (Conclusions 2011, Statement of interpretation on Article 19§6). The Committee therefore reiterates that the situation is not in conformity with the Charter.

With the amendments enforced in January 2017, the requirement for a spouse to reside in Estonia for at least two years if the alien wishes to apply for a residence permit to settle with the spouse, was abolished. Thus, the applicable Estonian law is in compliance with the Charter.

The Committee notes that other conditions applying to family reunion include a permanent legal income, independently or jointly with the spouse, to ensure that the family is maintained in Estonia. The Committee notes the indication in the report that no family member has been declined a residence permit because he or she did not have sufficient legal income. Nevertheless it considers that such requirements if too restrictive may deter migrants from applying for family reunion and thus present an obstacle to the enjoyment of their rights under Article 19§8 of the Charter. The Committee asks on what basis the determination of whether the applicant satisfies this criterion is made, and whether there are any threshold applied. It recalls that social benefits

should not be excluded from the calculation of the income of a migrant worker who has applied for family reunion (Conclusions 2011, Statement of interpretation on Article 19§6). It asks what constitutes 'legal income' relevant to the determination, and whether social assistance to which the applicant or their family members are lawfully entitled are excluded from the calculation.

Legal income in the sense of the Aliens Act is a legitimately earned salary, parental benefit, unemployment insurance benefit, income received from a legal business or property, pensions, scholarships, means of subsistence, benefits paid by a foreign state, as well as subsistence ensured by family members earning legal income. The maintenance provided for a family member is deemed to be:

- 1) maintenance provided by a parent of an underage child;
- 2) maintenance of an adult child provided by the parent if the child is unable to cope independently due to their state of health or disability;
- 3) maintenance of an adult child or grandchild studying full-time provided by a parent or grandparent;
- 4) maintenance provided by the spouse;
- 5) maintenance of an elderly or grandparent provided by an adult child or grandchild, if the parent or grandparent is not able to cope independently due to their state of health or disability;
- 6) maintenance of a ward provided by a guardian.

Legal income must allow the alien and their family members to cope in Estonia. According to the clause 224 (1) 2) of the Aliens Act, the rates of legal income are established by regulation of the Government of Estonia.

According to the Regulation No. 7 of 14 January 2017, the rate of the required legal income in applying for a temporary residence permit to settle with a spouse is twice the subsistence level for each month in Estonia, depending on the size of the family. Thus, the legal income of an alien and their spouse for each month of stay in Estonia must be equal to at least twice the subsistence level in Estonia.

If the residence permit is applied for in order to settle with a close relative pursuant to clauses 150 (1) 3) and 4) of the Aliens Act, the rate of the subsistence level is one subsistence level for each month in Estonia, depending on the size of the family.

The subsistence level is established each year by the Parliament of Estonia, and it determines the minimum monthly amount necessary for the daily life of a person residing in Estonia (incl. Estonian citizens, aliens).

Since 2017, when applying for a residence permit, a document certifying the existence of a legal income is no longer required, but the alien confirms, by signing the application for a residence permit, that they have an adequate legal income to the extent provided by law.

The Committee notes the requirement in the Aliens Act that the family must have a residence in Estonia, and asks whether there are any restrictions on what size or type of accommodation is considered sufficient for the purposes of family reunion.

The Aliens Act does not stipulate specific restrictions or conditions on which requirements the dwelling must comply with. Similarly to Estonian citizens, the dwelling requirements are also applied to the dwellings of foreigners with the aim of ensuring a safe and healthy living environment.

The Committee considers that restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality

and reasonableness. The Committee asks what appeal mechanisms exist to challenge decisions against the grant of family reunion.

The procedure for the issue of a residence permit is subject to the Administrative Procedure Act, according to which an administrative act is lawful if it is granted by the competent administrative authority and is compatible with the law in force at the time of granting, is proportionate, without abuse of discretion, and meets the formal requirements. In the event of a refusal to issue a residence permit, the alien has the right to file a complaint with the administrative court, then, if necessary, an appeal to the circuit court, and an appeal in cassation to the Supreme Court.

## ***Subsection 7 – Equality regarding legal proceedings***

### General regulation

The State Legal Aid Act (SLAA) does not include a special regulation on the so-called ‘migrant workers’ of third countries temporarily in Estonia, but seeks to provide them with state legal aid on the same basis as citizens and residents of the EU Member States according to the last sentence of subsection 6 (11) of the SLAA, if this results from an international obligation binding on Estonia. In this wording, the last sentence of subsection 6 (1<sup>1</sup>) of the SLAA applies from 28 April 2013, when the amendments to the Victim Support Act and amendments to other acts related to it entered into force. The wording includes both *erga omnes* obligations (international *ordre public*) and secondary acts of EU law<sup>12</sup>. Thus, the last sentence of subsection 6 (1<sup>1</sup>) of the SLAA covers all obligations arising from international agreements ratified by Estonia, including the obligations arising from section 7 of Article 19 of the European Social Charter. Based on the above, free state legal aid in Estonia based on the last sentence of subsection 6 (1<sup>1</sup>) of the SLAA and section 7 of Article 19 of the European Social Charter is guaranteed to all migrant workers on the same basis as to nationals and residents of EU Member States.

In Estonia, state legal aid is provided on the basis of clause 6 (1) 1) of the SLAA to all natural persons who, due to their financial situation, are unable to pay for a competent legal service at the time of needing legal aid, or can only do so in part or in instalments, or persons whose economic status does not allow for coping after the payment for the legal aid; who, due to their financial situation, are not able to pay for a professional legal service.

Regardless of their economic status, state legal aid is also provided to:

1. a suspect or accused person in criminal proceedings (under the conditions provided in subsection 6 (2) of the SLAA)
2. a person subject to proceedings in a court proceeding in a misdemeanour matter (under the conditions provided in subsection 6 (2) of the SLAA);
3. a child in a child support case ( subsection 6 (2<sup>1</sup>) of the SLAA).
4. a victim with restricted active legal capacity in criminal proceedings (under the conditions provided for in subsection 6 (2<sup>2</sup>) of the SLAA).
5. legal persons (in exceptional cases and conditions provided in subsections 6 (3, 4) of the SLAA).

State legal aid covers legal counselling and representation of a person in all court proceedings, pre-trial proceedings, execution proceeding, and administrative proceedings, as well as preparation of legal documents, and other legal counselling and representation (section 4 and chapter 7 of the SLAA).

If the state legal aid lawyer does not possess the language of the recipient of the SLA, they can use, at the expense of the state, the assistance of an interpreter for the provision of state legal aid (Regulation No. 16 of the Minister of Justice of 26 July 2016 ‘Principles for calculating the remuneration for the provision of state legal aid, payment procedure, fees, the scope and procedure of reimbursement of expenses incurred in providing state legal aid, and the conditions for submitting an application’, sections 18 and 20). For the translation of procedural documents, the person can also request translation services from the court in all court proceedings.

---

<sup>12</sup> See explanatory note on the draft law amending the Victim Support Act and other related acts (379 SE).

Unfortunately, state legal aid statistics and (court) practice on third-country nationals temporarily employed in Estonia cannot be presented, since they cannot be distinguished from other foreigners based on the registered data.

In response to the question of the Committee (Conclusions 2011), the report indicates that assistance in legal proceedings is prescribed in the State Legal Aid Act. The persons covered by the act also include migrant workers. Natural persons may receive state legal aid if they are unable to pay for competent legal services due to their financial situation at the time they require assistance, if they are only partially able to pay for legal services, or if they would not be able to meet their own basic subsistence needs after paying for such legal services. Assistance is provided to persons who at the time of application have residence in Estonia or another member state of the EU, or is a citizen of Estonia or another Member State of the EU. Determination of residence is based on Article 59 of Council Regulation No. 44/2001/EC. The Committee notes that this Article states that 1) in order to determine whether a party is domiciled in the Member State whose courts are seized of a matter, the court shall apply its internal law and 2) if a party is not domiciled in the Member State whose courts are seized of the matter, then, in order to determine whether the party is domiciled in another Member State, the court shall apply the law of that Member State. The report indicates that legal aid will not otherwise be granted to natural persons unless the obligation arises from binding international law. The Committee requests clarification on who shall be considered to be resident in Estonia for these purposes.

According to the last sentence of subsection 6 (1<sup>1</sup>) of the SLAA and section 7 of Article 19 of the European Social Charter, free state legal aid is guaranteed to all persons temporarily staying and working in Estonia, regardless of their nationality or country of residence, on equal terms with the citizens and residents of EU Member States.

*The Committee refers to its Statement of interpretation on the rights of refugees under the Charter, and asks under what conditions refugees and asylum seekers may receive legal aid assistance.*

For beneficiaries of international protection and applicants for international protection, state legal aid is guaranteed by the last sentence of subsection 6 (1<sup>1</sup>) of the SLAA to the extent required by the Convention Relating the Status of Refugees and the relevant EU legislation.

During 1 October 2015–31 December 2017, in the international protection proceedings and in the ensuing administrative court proceedings, state legal aid was provided to 94 persons in 118 cases. Unfortunately, statistics on other types of state legal aid (e.g., in civil or criminal matters) and (court) practice regarding state legal aid for applicants for international protection cannot be presented since, based on the information recorded, applicants for international protection cannot be distinguished from other parties to the proceedings.

The legal aid and representation principles for applicants for international protection are governed by the Procedures Directive (2013/32/EU, Articles 19–23). Applicants have the right to use legal aid and representation throughout the entire duration of proceedings at their own expense. Legal aid and representation are provided to applicants in legal proceedings. At the administrative stage, Member States will be able to decide whether to provide applicants with legal aid and representation or free legal and procedural information. According to the Act on Granting International Protection to Aliens and the Administrative Procedure Act, applicants for international protection are provided with free legal and procedural information throughout the proceedings.

The procedural unit of the Police and Border Guard Board (PBGB) dealing with international protection proceedings is the issuer of procedural information. Legal and procedural information is provided by legal advisers who work at the detention centre and in the accommodation centre. The main task of advisers is to clarify the rights and obligations of applicants and beneficiaries of assistance, assistance in preparing for interviews, practical assistance in dealing with administrative agencies, filing a complaint and applying for legal aid in the event of refusal, family reunification, and all other legal matters.

Further assistance in matters relating to legal status for applicants for international protection and beneficiaries of international protection is provided by migration advisers working at the PBGB customer service. These advisers consult applicants on legal grounds related to the application and extension of residence permits.

Additionally, all beneficiaries of international protection participate in the Welcoming Programme and receive an overview of their rights and obligations, and the institutions that can be contacted (Chancellor of Justice, Equal Treatment Commissioner) in the case of the violation of their rights.

## ***Subsection 8 – Guarantees relating to deportation***

### General regulation

According to section 34 of the Constitution of the Republic of Estonia, everyone who is in Estonia legally has the right to freedom of movement and choice of residence. Only if the alien does not have a legal basis for staying or it has been declared invalid, shall a precept be issued to the alien to leave Estonia. In the precept to leave Estonia, a deadline of 7 to 30 days for the voluntary departure will be set for the alien. Aliens staying in Estonia without legal basis can be expelled immediately if there is a risk of absconding, the alien has not fulfilled their obligation to leave on time, or they may pose a threat to public order or national security.

### Measures for implementation

An alien who does not have the financial means for returning can apply for aid from the VARRE programme (<http://www.iom.ee/varre/>). The programme, implemented by the International Organization for Migration, offers assistance in preparing for returning (counselling, travel documents, purchasing airline tickets) as well as reintegration support. Reintegration support is a benefit in kind (a service) and it will only be available after the foreigner has returned to their country of origin.

### Statistics

	Total of precepts	... immediately enforceable compulsory precept	... precept with a voluntary departure date
2015	610	136	459
2016	514	110	397
2017	657	125	527

**Table. Number of foreigners supported by the VARRE programme 2015–2017**

2015	2016	2017
26	40	82

In its previous conclusion (Conclusions 2011), the Committee examined the rules relating to expulsion and found them to be in conformity with the Charter. It recalls that the Obligation to Leave and Prohibition on Entry Act provides the bases and procedure for expulsion. A non-national may be expelled from Estonia on the grounds that he or she no longer has any basis for remaining and s/he fails to leave the territory or where it is necessary to ensure the protection of public order, national security, health or moral standards or to prevent an offence. Prior to a non-national being expelled, he or she is issued with a “precept” informing him/her of the obligation to leave. The term for voluntary compliance with the obligation to leave stipulated in the precept can be between 7 and 30 days, and may be extended if necessary. A foreigner is then expelled if he/she does not comply with the precept without good reason. An appeal against the decision to issue a precept or a decision made to ensure compliance with a precept may be filed with an administrative court within ten days of the notification of the decision. The Committee understands that when making a decision on

expulsion the court takes into account the personal circumstances of the foreigner and his/her family members, and asks for confirmation of this point.

According to section 4 of the Administrative Procedure Act, the administrative authority must exercise discretion when issuing a precept to leave in accordance with the limits of the mandate, the purpose of the discretion, and the general principles of law, taking into account the essential facts and considering the justified interests. An alien may file an appeal to the administrative court about a precept to leave within 10 days from the date of notification of the precept. The court ensures an effective and equal opportunity for the parties to the proceedings to submit and substantiate their positions, and to argue against or support other parties to the proceedings on issues of importance.

The Committee recalls that foreign nationals who have been resident for a sufficient length of time in a state, either legally or with the tacit acceptance of their illegal status by the authorities in view of the host country's needs, should be covered by the rules that already protect other foreign nationals from deportation (Conclusions 2011, Statement of interpretation on Article 19§8). In its previous conclusion (Conclusions 2011) the Committee asked for information on this issue. The Committee repeats its request for information on the law and practice pertaining to the expulsion of migrants who are citizens of other States party to the Charter, who have been long-term residents in Estonia and established significant ties there.

Only if the alien does not have a legal basis for staying or it has been declared invalid, shall a precept be issued to the alien to leave Estonia. Therefore, it is not possible for an individual to be expelled from the country before their legal status has been changed or their residence permit has been revoked. In case the residence permit of a long-term resident is revoked, the Obligation to Leave and Prohibition on Entry Act applies to the alien to the same extent, i.e. the same obligations and the same protection measures, as to other aliens.

Grounds for the declaration of invalidity of an alien's residence permit arise from the Aliens Act. Grounds for the declaration of invalidity of a long-term resident's residence permit are provided for in section 241 of the Aliens Act, in accordance with the Council of the European Union Directive 2003/109/EC on the status of third-country nationals who are long-term residents. Subsection 241 (1) of the Aliens Act provides a list of grounds for allowing the declaration of invalidity of long-term resident's residence permit. A residence permit for a long-term resident may be declared invalid, if:

- 1) the alien has submitted incorrect information about the circumstances essential to the proceedings or has used fraud to obtain a residence permit for a long-term resident;
- 2) the alien constitutes a threat to public order and national security;
- 3) the alien has been punished in Estonia for an intentional criminal offense against the state and their sentence has not expired;
- 4) the alien has been in possession of a valid temporary residence permit for an alien on the basis of the International Protection Law immediately prior to applying for a long-term resident's residence permit, and the grounds for expiry or invalidation of the refugee status or subsidiary protection status of an alien specified in this Act become apparent.

If a long-term resident's residence permit is declared invalid on the grounds that the alien has submitted false information or has used fraud in order to obtain a residence permit for a long-term resident, or if an alien constitutes a threat to public policy and national security, or the alien has been punished for an intentional crime against the state and their sentence has not expired, the offense committed by the alien, the severity or nature or the risks related to the person concerned are considered, taking into account the duration of the alien's residence in Estonia, the alien's age, the consequences of the declaration of invalidity of the long-term resident's residence permit for the alien and their family members, and ties with Estonia and their country of origin.



Subsection 241 (2) of the Aliens Act provides for imperative grounds for the declaration of invalidity of a long-term resident's residence permit. In accordance with this subsection, a residence permit for a long-term resident is revoked in the following cases:

- 1) personal request of the alien;
- 2) if the alien stays outside the Member States of the European Union for twelve consecutive months;
- 3) if the alien has acquired long-term resident status in another Member State of the European Union;
- 4) if the alien has stayed outside Estonia for six consecutive years;
- 5) if an alien who holds a residence permit for a long-term resident as a person residing in Estonia on the basis of the former EU Blue Card stays outside the Member States of the European Union for 24 consecutive months, or
- 6) if an alien who holds a residence permit for a long-term resident, which has been issued to them as a family member of a person who lives in Estonia on the basis of the former EU Blue Card, stays outside the Member States of the European Union for 24 consecutive months.

The alien's absence from Estonia is not a basis for the declaration of invalidity of a residence permit if the Police and Border Guard Board considers the alien's absence from Estonia justified.

## ***Subsection 9 – Transfer of earnings and savings***

### General regulation

In the beginning of 2017 Estonia transposed the Payment Accounts Directive of the European Union (RT I, 31.12.2016, 1). The respective changes made to the Law of Obligations oblige credit institutions to offer payment accounts with basic features to all consumers who lawfully reside in the European Union and have a justified interest in having a payment account in Estonia. This includes for example migrant workers who reside and work lawfully in Estonia. The basic features that a payment account offered to them has to have include for example

Act Credit institutions are obliged to enter into a basic payment service contract (hereinafter basic payment service contract), in the event of justified interest of a consumer, for provision of the basic payment services specified in subsection 709 (151) of this Act to consumers who lawfully reside in the European Union, based on the terms and conditions provided for in subsection (1) of this section.

With reference to its Statement of interpretation on Article 19§9 (Conclusions 2011), the Committee asks whether there are any restrictions on the transfer of the movable property of migrant workers.
---

There are no legal restrictions on the transfer of movable property of migrant workers.

## ***Subsection 10 – Equal treatment of self-employed persons***

### General regulation

As stated in the previous report, the rights and obligations of an alien who received a temporary residence permit for entrepreneurship concerning family reunification, access to courts, and deportation, are similar to those of an alien holding a temporary residence permit for employment. As the 2017 amendments abolished the requirement for spouses to have been residing in Estonia in the previous two years, the conflict with section 6 of Article 19 of the Charter was abolished, and we find that this section of the Charter is in accordance with the current Estonian law.

In addition, we note that several amendments have been introduced to the Act, simplifying the arrival of the start-up and major investors in Estonia:

#### **1) Amendments concerning start-ups**

According to the amendments, entrepreneurs can apply for a visa under favourable visa conditions in order to establish a start-up in Estonia, even if the company has not yet been formally registered. An exception applies to start-up entrepreneurs with regard to the amount of sufficient funds. After the registration of the company in Estonia, it is also possible to apply for a residence permit for entrepreneurship on favourable terms. The investment requirements for applying for a residence permit for entrepreneurship do not apply to the start-up entrepreneurs (generally, a company is required to make an investment of at least 65,000 euros and a self-employed person is required to make an investment of at least 16,000 euros). In order to apply for a visa or residence permit on favourable terms, or to register for a short-term employment, an expert committee operating at the Ministry of the Interior must certify that it is indeed a start-up company within the meaning of the Aliens Act.

#### **2) Amendments concerning major investors**

An opportunity was also created for granting a residence permit for entrepreneurship to a major investor. A major investor is a foreigner who has made a direct investment of at least 1,000,000 euros into a company registered in the Estonian Commercial Register, which invests primarily in the Estonian economy, or an investment fund, according to whose investment policy the funds are invested mainly in companies registered in the Estonian Commercial Register.

In cooperation between the ministries, a visa for digital nomads is prepared. The Ministry of the Interior is preparing an amendment to the Aliens Act, which would make the rules for the employment of foreigners in Estonia more flexible. A digital nomad may have a company, but the part of the self-employed persons is not yet planned under the new visa. The current labour migration regulation does not take digital nomads into account since they must be employed by an Estonian employer to come to work in Estonia. Therefore, digital nomads come to Estonia with a tourist visa, although they wish to telework from here. In addition, the rules of working in Estonia are planned to be made more flexible for aliens, so that they could work in the short term simultaneously with several employers and switch employers without applying for a new residence permit. The proposed amendment of the Population Register Act would make it possible to register a residence for those foreigners who are staying here temporarily but for at least six months – the time during which they will generally become tax residents. This would provide them with access to more public services.

### Statistics

**Table. Applications and positive decisions for a temporary residence permit for entrepreneurship, 2014–2017:**

	2014		2015		2016		2017	
	applic ations	pos decisio ns	applic ations	pos decisio ns	applic ations	pos decisio ns	applic ations	pos decisio ns
temporary residence permit for entrepreneurship	88	32	72	28	72	18	139	68

However, in the case of Article 19§10, a finding of non-conformity in any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under that paragraph, because the same grounds for non-conformity also apply to self-employed workers. This is so where there is no discrimination or disequilibrium in treatment.

The Committee has found the situation in Estonia not to be in conformity with Article 19§6. Accordingly, the Committee concludes that the situation in the Estonia is not in conformity with Article 19§10.

As stated in the previous report, the rights and obligations of an alien who received a temporary residence permit for entrepreneurship concerning family reunification, access to courts, and deportation, are similar to those of an alien holding a temporary residence permit for employment. As the 2017 amendments abolished the requirement for spouses to have been residing in Estonia in the previous two years, the conflict with section 6 of Article 19 of the Charter was abolished, and we find that this section of the Charter is in accordance with the current Estonian law.

## ***Subsection 11 – Teaching the language of the host country***

### Implemented measures

Within the framework of the European Social Fund's 2014-2020 Priority Axis 2, Action 2.6.2 'Development, Piloting and Implementation of Adaptation Training', all aliens who have lived in Estonia for less than 5 years on legal basis are offered the opportunity to participate in the free A1-level Estonian language learning course of the adaptation programme aimed at new immigrants.

Also, through the Integration Foundation, the Ministry of Culture allows foreigners to participate in both Estonian language courses and language cafes.

The Ministry of Education and Research has developed an online language learning environment for the acquisition of Estonian up to the level of B1 ([www.keeletee.ee](http://www.keeletee.ee)). In addition, it is possible to learn Estonian through the Speakly app (<https://www.speakly.me/>).

In addition to free Estonian language courses offered by the state and the independent language learning opportunities, adults can also learn Estonian in language schools as a paid service. Foreigners using the services of language schools can apply for a reimbursement of the Estonian language learning expenses from Foundation Innove:

- reimbursement of expenses for persons who have passed the Estonian language proficiency level A2, B1, B2 or C1.

The Estonian Unemployment Insurance Fund offers Estonian language learning opportunities for adults through labour market training. Persons who have been registered with the Unemployment Insurance Fund can participate in the labour market training, in particular, if they have not found work despite searching for a job, and the counselling has revealed that recruitment requires the acquisition of new knowledge or skills or the improvement of existing ones, including the acquisition of Estonian language proficiency. Training is provided to those seeking employment and who are registered in the Unemployment Insurance Fund as unemployed, as a jobseeker with a redundancy notice, or as a registered jobseeker of a retirement age who is not employed.

Through the Unemployment Insurance Fund, Estonian can be learned at all levels of language proficiency and in various forms of study (regular education, intensive studies, Estonian language training for professionals, Estonian language training for servicemen, preparatory refresher training for proficiency examinations, etc.). The duration of Estonian language training courses commissioned by the Unemployment Insurance Fund is generally 160–300 hours. Customers registered as unemployed are paid a stipend, travel and accommodation allowances by the Unemployment Insurance Fund. The stipend is calculated on the basis of the data presented by the training provider for each day of participation in the training. The daily rate of the stipend is 3.84 euros and it will be credited once a month to the customer's bank account in the month following the participation in the service.

In addition, the Ministry of Education and Research supports the Estonian language learning at B2 and C1 level of education workers of Ida-Viru County; it is also possible for local governments to apply for language learning assistance from Innove to all those living within the local government and in need of assistance in language learning.

### Statistics

From September 2015 to June 2018, there have been approximately 1,700 students in the A1-level Estonian-language learning courses of the Welcoming Programme.

## ***Subsection 12 – Teaching the mother tongue of the migrant***

### General regulation

Section 21 of the Basic Schools and Upper Secondary Schools Act states that for students who are acquiring basic education in a language which is not their mother tongue or whose communication language at home is different from their mother tongue, which is the mother tongue of at least one of their parents, the school will organise language and cultural lessons if it is requested by at least ten students with the same mother tongue or home language. According to the procedure established by the regulation of the Government, language and cultural education is provided for non-native students as an elective subject in the extent of at least two lessons. If the management of the school receives fewer applications than ten, the school will decide, in cooperation with the rural municipality or city government, whether to provide linguistic and cultural education.

In reality, this option tends not to be used. The main reason for this is the lack of concentration of many ethnic minorities in the school's service area, and the widespread use of the Russian language as a *lingua franca* among ethnic minorities. By way of exception, Tallinn Jewish School, where Hebrew and music education is taught in the mother tongue, may be highlighted. In Tallinn Finnish School, which was established under a transnational agreement, the language of tuition is Finnish.

### Measures, Statistics

Altogether, ethnic minorities have used non-formal opportunities for language and cultural learning in Sunday schools operating in cultural societies. Sunday schools can be registered on the basis of the Private Schools Act, which provides them with consistent state support. The Integration Foundation has recorded 35 Sunday schools operating at the cultural associations of ethnic minorities. In the academic year of 2017/2018, the Ministry of Education and Research supported the activities of the Sunday schools of ethnic minorities in the amount of 135,500 euros.

Cultural associations of ethnic minorities receive support under the basic financing model, which has been operating through umbrella organisations from 2009. As of 2011, 20 umbrella organizations of ethnic minority cultural associations have been registered. Russians, Ukrainians, Belarusians, Uzbeks, Armenians, Azerbaijanis, Tatars, Caucasian minorities, Jews, Latvians, Koreans, and Ingres have cultural associations.

The representatives of cultural associations of ethnic minorities have been actively involved in the discussion processes that began in 2001 for preparing the foundations of cultural policy until 2020, and the development of the state budget operating grants, i.e. the basic financing principles, of ethnic minority cultural associations' umbrella organisations.

In addition, the cultural activities of minorities are supported by the state budget funds, the Ministry of Culture, the Ministry of Education and Research, the Estonian Cultural Endowment, the Gambling Tax Council and the National Foundation of Civil Society. The languages and cultures of the minorities are also supported by local governments. National minorities also receive support from private foundations and foreign embassies.

## Article 27 – The rights of workers with family responsibilities to equal opportunities and equal treatment

### ***Subsection 1 – Participation in work life***

#### **Employment, vocational guidance and training**

##### Legal regulation

The Labour Market Services and Benefits Act does not provide for special measures for jobseekers with family responsibilities, however, section 12 of the Employment Programme 2016–2017 of the Government of Estonia provides for the labour market service ‘Individual Employment’, according to which the Estonian Unemployment Insurance Fund may compensate a person or pay additional expenses related to participation in labour market services and recruitment, in particular the cost of care service and other costs arising from the special needs of the person. The cost of the care service may be compensated to the unemployed person or paid for an unemployed person who is unable to take part in the labour market or the labour market service due to raising a child of up to seven years of age, or caring for an elderly or disabled person. The cost of the care service is reimbursed for each day of participation in the labour market service or for each working day during the first three months of employment. If the cost of the care service includes a place fee, the cost will be reimbursed, regardless of the number of days involved in the labour market services or worked in the labour market. The cost of a care service is reimbursed up to 16 euros per day per one person under curatorship. If the cost of the care service includes a place fee, the cost will be reimbursed in the sum of up to 352 euros per month per one person under curatorship. In justified cases, especially in the case of special needs of the person under curatorship, the cost of the care service can be reimbursed to a greater extent. Since the reimbursement of care service costs and provision of care facilities are social services that should be provided by a local government, the Estonian Unemployment Insurance Fund does not reimburse the cost of the care services provided to the person if it is reimbursed to a person by a local government unit. The ‘Individual Employment’ service of 2014–2015 was provided for under the same principles.

As a labour market measure, the Estonian Unemployment Insurance Fund offers the service ‘My First Job’ for young people aged 16–29 with low level of professional experience and professional qualification. The purpose of the service is to increase the employer's motivation to hire young people who do not have work experience or have a short-term work experience, through remuneration and reimbursement of training expenses. The ‘My First Job’ wage subsidy supports employers who employ a person aged 16–29 years, who is registered as unemployed and has not been employed in the last 3 months or has been temporarily employed for a total of less than 30 days in the activities specified in clauses 6 (5) 3–5) of the Labour Market Services and Benefits Act, and have no work experience or have a short-term work experience (have worked less than a year in the last 3 years, or have worked less than 2 years in total). The wage subsidy is paid to the employer for a maximum of 12 months (half of the length of the contract in the case of a fixed-term contract, but for no more than 12 months) and 50% of the employee's monthly salary (no more than twice the minimum wage in Estonia). In order to promote the development of young person's skills and increase their competitiveness on the labour market, the Estonian Unemployment Insurance Fund compensates employers for the cost of work-related training for the young person in the sum of up

to 2,500 euros within two years after the young person's employment. The need for training and participation in training must have been agreed upon with the Estonian Unemployment Insurance Fund. Estonian Unemployment Insurance Fund offers the 'My First Job' service under the European Union Youth Guarantee Initiative, which aims to provide young people with the opportunity to return to school, internship, high quality apprenticeship or accept a suitable job offer within four months of becoming unemployed or leaving school.

According to section 28 of the Vocational Education Institutions Act, vocational training is provided in both full-time and non-stationary forms of study, including both school- and work-based learning in full-time form. Therefore, flexible learning opportunities can be used to combine vocational training and family responsibilities. According to clause 43 (2) 9), an academic leave may be provided for the care of a child until the child reaches the age of three years, until then the obligation to pay interest on a student loan is suspended for one of the parents (section 18 of the Study Allowances and Study Loans Act). A student of a vocational school can apply for a special allowance in order to alleviate their difficult economic situation (section 5), and the student travel expenses are reimbursed in accordance with the applicable procedure.

Students studying in full-time form in training places established on the basis of a state-commissioned education and whose place of residence is not located in the same settlement as the educational institution can apply for the reimbursement of travel expenses from the educational institution. The exact arrangements for obtaining a travel fare concession depend on the school regulations and distance of travel. In addition, some vocational schools have adapted student homes to allow for the use of a family room or a child's bed.

### Statistics

The Estonian Unemployment Insurance Fund has reimbursed care service expenses to 138 people in 2014 (0.17% of all unemployed people); in 2015, 102 people received the service (0.13% of the unemployed); in 2016, the service was provided to 74 people (0.09 % of the unemployed); and to 99 people in 2017 (0.12% of the unemployed).

## **Working conditions, social security**

### Legal regulation

In 2014, Estonia submitted to the Committee information on work-life balance. During the reporting period, no changes have been made to the relevant regulation. The working hours are agreed upon between the employee and the employer. The parties may agree that if the employee is unable to work full-time due to family responsibilities, the employee will work part-time. The employee and the employer can also agree that the employee will work on a more flexible working schedule. For example, in a situation where an employee needs to pick up their child from the kindergarten at six in the evening at the latest, the employer shall take into account the worker's wishes when drawing up the work schedule. In addition to the above, the parties may agree that, for example, the employee works from home.

In July 2018, the leave for the care of an adult with a profound disability under the Employment Contracts Act entered into force (section 65<sup>1</sup> of the ECA) – meaning that an employee is entitled to



receive up to five working days in the calendar year for the care of an adult with a profound disability (care leave) if they are 1) directly ascendant or descendant; 2) brother, sister, half-brother or half-sister; 3) spouse or registered partner; 4) guardian; 5) appointed guardian on the basis of section 26 of the Social Welfare Act of a severely disabled adult.

### Statistics

Collective agreements regulating working conditions that may facilitate the reconciliation of work and the private life are based on the data of the collective agreement database. Collective agreements in force as of August 2016, statutory agreements on child care leave (sections 63, 64, 60, etc. of the ECA) were concluded on 98 times, i.e. 12% of all valid collective agreements, paid leaves/days off not arising from the law (e.g. 1 September, health days, funeral day, marriage day) in 559 cases, i.e. 68% of all applicable collective agreements, unpaid leave/days off in 193 cases, or 24% of all applicable collective agreements. Telework agreements (subsection 6 (4) of the ECA) occurred in 18 cases, i.e. 2%, part-time agreements (subsection 43 (1) of the ECA) in 70 cases, i.e. 9%, and agreements in additional free time (subsection 38 (4) of the ECA) in 83 cases, i.e. 10% of the applicable collective agreements.

### **Nursery school and child care**

#### Legal regulation and measures for the implementation of the regulation

The Estonian Social Charter report of 2014 (subsection 1 of Article 27) gave an overview of the legal regulations regarding nursery school and childcare services. Since the submission of the information, no major changes have been made to the regulations of nursery school and childcare services. Additional facilities for the organisation of childcare services have been created for parents of children with severe and profound disabilities.

Starting from 1 January 2017, local government units will be granted support on the basis of the Social Welfare Act for the provision of assistance to children with severe and profound disabilities. The purpose of the support is to reduce the family care burden or to partially support the additional needs arising from the disability of children with severe and profound disabilities in the provision of social services, which means that the local government is able to compensate for the costs of childcare for children with severe and profound disabilities. The support is distributed among the local government units on the basis of the number of children with severe and profound disabilities as of 1 December, deducting the surplus of the funds allocated to the local government unit for the same purpose in the year prior to the current year. The number of children with profound disability is multiplied by 4.62, as their need for services may be higher.

From 2015, in addition to local government funding, support is provided through the European Social Fund in order to provide support services (child care and support person services, and transport services as a support service) for children with severe and profound disabilities who require intensive assistance. The annual volume of services is up to 4,918 euros per child during one calendar year.

As a result of the administrative reform which abolished county governments, section 157 of the Social Welfare Act (SWA) stipulates that childcare services will be supervised by the Social Insurance Board. In the course of supervision, the Social Insurance Board inspects the compliance of childcare service providers. Section 45<sup>4</sup> of the SWA stipulates that in order to work as a childcare service provider, the person must:

- 1) have a professional certificate of a childcare service provider issued on the basis of the Professions Act, or
- 2) have at least secondary or vocational education, work experience with children and appropriate personal qualities, which are assessed by the employer.

The second point has been amended as of 2017, since before the amendments there were a number of areas of specialisation in which the knowledge necessary for working with children was acquired, however, the representatives of these professions did not have the right to work as a child care provider under the law in force before 2017.

According to the data of 2017/2018 provided by Haridussilm, 69% of pre-school child care institutions teachers have higher education (at least a professional higher education or a Bachelor's degree). 87% of childcare service providers meet the professional standards (data of the Ministry of Social Affairs in 2016).

In 2015, 568 new places in childcare facilities all over Estonia were created to alleviate the shortage of child care facilities. The European Social Fund supports these facilities with 3.6 million euros, which is added to the local government self-financing. The new child care facilities receive support for up to 36 months.

In 2018, new flexible childcare facilities will be created, which will support, among other things, the parents working unconventional hours, and provide care facilities for children with special needs.

In addition, the Ministry of Finance is coordinating the construction of nearly 2,200 new places in child care facilities and nursery schools. The European Regional Fund supports the construction of child care facilities in the three major urban areas of Estonia in 2014–2020 in the amount of 34 million euros.

According to Haridussilm's data for the academic year 2017/2018, 80% of children aged 1.5–3 years attend pre-school care facilities. The percentage of children aged 4–6 years attending pre-school care facilities is 90%. In total, 66,895 children receive pre-school education in 628 in formal childcare.

Based on the data gathered in 'The Survey of Pre-School Education and Childcare' (Themas, A et al., 2015), most children on the nursery school waiting list in 2015 were aged 1.5 to 3 years (59% of their age group). An indicator characterising the need for an immediate place in a childcare facility was also pointed out. Data about children whose parents wished for the admission of their child in a nursery school in 2014/2015, but were denied, was also collected. There were 2,290 such children in Estonia in 2015.

In order to alleviate the shortage of nursery school places, the Ministry of Education and Research amended the local government's obligation described in section 10 of the Preschool Child Care Institutions Act, according to which the rural municipality or city government may, with the consent

of the parent, replace the place of a child (aged 1.5–3 years) in a nursery school with a child care service. In this case, the rural municipality or city government must ensure the financial participation rate of the parent is the same as is paid by a parent using the services of a nursery school.

The parent or the actual carer of the child can take a certificate for care leave in the event of the child's illness, and receive a care allowance for this period. The care allowance is paid by the Health Insurance Fund to a person insured under the certificate for care leave, who loses taxable income subject to social tax due to nursing a sick child or family member. Compared to the 2014 Estonian report of the Social Charter, the conditions for care allowance have been somewhat amended. From 1 July 2015, the parent of a child below the age of 12 years, whose illness is caused by a malignant tumour and whose treatment commences in a hospital, is entitled to a care allowance of up to 60 consecutive days (basis: subsection 59 (1<sup>1</sup>) of the Health Insurance Act). On 1 July 2017, an amendment entered into force stipulating that the right to care allowance for the care of a child under 19 years of age is up to 14 consecutive days. Prior to this, the right to a 14-day care allowance was only provided for nursing a child under the age of 12 years. The care allowance for up to 10 consecutive days is continually available for caring for a child under the age of three or a child under the age of 16, if the child's caregiver is ill or they are provided with obstetrical care.

#### Statistics

Table 10. Children in pre-school nursery schools by counties, 2014–2017

	2014	2015	2016	2017	Change in 2017 compared to 2014.
Estonia, total	653	634	635	628	-4%
Harju County	227	223	225	219	-4%
Hiiu County	6	5	5	5	-20%
Ida-Viru County	61	58	55	52	-17%
Jõgeva County	23	23	24	24	4%
Järva County	21	17	17	17	-24%
Lääne County	19	19	19	16	-19%
Lääne-Viru County	30	30	30	31	3%
Põlva County	18	18	18	15	-20%
Pärnu County	46	45	46	49	6%
Rapla County	29	28	28	26	-12%
Saare County	21	21	21	21	0%
Tartu County	75	73	74	80	6%
Valga County	21	21	21	19	-11%
Viljandi County	36	33	32	31	-16%
Võru County	20	20	20	23	13%

Source: Statistics Estonia

Table 11. The number of pre-school childcare institutions by county, 2014–2017

	2014	2015	2016	2017	Change in 2017 compared to 2014.
--	------	------	------	------	----------------------------------

Estonia	68,812	68,331	67,575	66,895	-3%
Harju County	33,218	32,845	32,417	32,043	-4%
Hiiu County	376	349	349	330	-14%
Ida-Viru County	6,462	6,357	6,259	6,088	-6%
Jõgeva County	1,365	1,345	1,354	1,229	-11%
Järva County	1,463	1,427	1,404	1,377	-6%
Lääne County	988	1,003	1,017	887	-11%
Lääne-Viru County	2,686	2,739	2,681	2,745	2%
Põlva County	1,181	1,146	1,109	983	-20%
Pärnu County	4,337	4,271	4,208	4,257	-2%
Rapla County	1,734	1,745	1,723	1,636	-6%
Saare County	1,536	1,598	1,589	1,527	-1%
Tartu County	8,552	8,491	8,486	8,829	3%
Valga County	1,262	1,281	1,261	1,168	-8%
Viljandi County	2,095	2,163	2,160	2,191	4%
Võru County	1,557	1,571	1,558	1,605	3%

Source: Statistics Estonia

Table 12. Expenditure on care allowances, 2014-2017

	2014	2015	2016	2017
Number of leaves	106 419	112 963	122 844	124 538
Number of compensated days	855 143	895 948	961 035	964 351
Amount of allowances paid (in thousand euros)	16 465	18 367	21 210	22 318
Average allowance per day (in euro)	19.3	20.5	22.1	23.1
Average duration of leave (in days)	8.0	7.8	7.8	7.7

Source: Health Insurance Fund

## ***Subsection 2 – Parental leave***

### Legal regulation

Compared to the Estonian report of the Social Charter, submitted in 2014, the conditions for child care leave have not changed during 2014–2017. However, after 2017 the parental leave and benefits system has been amended and the following is an overview of the amendments concerning the paid parental leave.

In 2015, the ‘Green paper on family benefits, services and parental leave’ was compiled by the Ministry of Social Affairs with the aim of proposing family policy measures that would help solve the tasks that Estonia is facing – supporting the economic coping capacity of families, reconciling work and family life, and increasing birth rates. The results of the ‘Analysis of the Estonian parental leave and benefit system’ conducted by the PRAXIS Centre for Policy Studies were taken into account with regard to the recommendations on parental leave and family benefits.

One promise of the Government of the Republic of Estonia's 2016–2019 action programme was to create a system of parental leave and benefits that is sufficiently flexible, offers parents various choices, supports the participation of parents in the labour market and shared parenting between parents. An analysis of the system of parental leave and benefits was compiled in 2016, which assessed the compliance of parental leave and the benefits and remuneration related to it with the parents’ needs and modern organisation of work, and alternatives were offered for the development of parental leave and benefits. The different opportunities offered were based on three objectives:

- promoting a more balanced distribution of parental leave between mothers and fathers;
- creating more flexible opportunities for parents to use parental leave and benefits;
- ensuring the legal clarity of the system of parental leave and benefits and the purposefulness of the measures.

On 2 March 2017, the government approved motions to amend the Parental Leave and Benefit System. Since the amendments are extensive and require multi-party agreements, as well as the development of the information technology of the Social Insurance Board and other parties, it was decided to amend the law in two parts.

The Parliament passed the amendments of the first stage on 6 December 2017. With the amendments, fathers received the right for a 30-day individual leave and benefit. The father's right to parental benefit is independent of their previous employment relationship or contractual form of employment, and thus, all fathers can use the benefit either simultaneously with the mother or separately. The individual right of fathers will come into force on 1 July 2020, and at the same time, an amendment that allows the parental benefit to be suspended and continued, according to the wishes of the parent, until the child reaches the age of three years, will also come into effect.

Since the purpose of the amendments was to facilitate the reconciliation of work and family life, an amendment entered into force on 1 March 2018, which allowed for better conditions for obtaining parental benefits while working part-time. Before the change came into force, the parental benefit was reduced if the person earned a larger salary than the current parental benefit rate (for example, 470 euros in 2018), whereas, from 1 March 2018, the parental benefit of the person earning a salary

will be reduced only if the earned salary exceeds the upper limit of the parental benefit (which corresponds to a one and a half times the average salary). Therefore, in the year 2018, the parental benefit was reduced only if the earnings of the person at the time of receiving the parental benefit exceeded 1,544 euros per calendar month. In this case, half the gross monthly income is deducted from the upper limit of the parental benefit, and the difference is divided by two.

On 1 September 2019, the basis for the parental benefit will change and the parental benefit will be calculated on the basis of the 12 calendar months preceding the pregnancy (9 months).

The amendments of the second stage will be submitted to the Parliament for second reading on 10 October 2018, and the amendments will most likely be adopted in the fall of 2018. The amendments to the law include the renaming of pregnancy and maternity leave into maternity leave and changes to the conditions. Compared to pregnancy and maternity leave, the period of maternity leave will be changed from 140 to 100 days, and parents will have a longer paid parental leave period (current child care leave). Whereas the pregnancy and maternity leave was reimbursed from the Health Insurance Fund's budget, the maternity leave will be paid as mother's parental leave through the Social Insurance Board from the state budget.

In addition to changing the conditions of the pregnancy and maternity leave, the draft will also amend the conditions for the reimbursement of the parental leave and adoptive parent leave, and the conditions and compensation for parental leave will be made more flexible. The legislative amendments of the second stage are planned to come into force on 1 April 2022.

Thus, it can be said that Estonia has moved in the right direction according to the findings of the Committee, according to which parental leave should be an individual right that is granted to each parent separately. In the coming years, various changes will take effect, as a result of which part of the period covered by parental benefit is reserved for mothers, part for the fathers, and the rest of the period covered by parental benefit distributed between the parents.

#### Measures for implementation

The aim of the amendments to the parental leave and benefits system is to promote a more balanced division of parental leave between the mother and father, and create more flexible opportunities for parents to use parental leave and receive parental benefits. In order to encourage more fathers to share the care burden on mothers, a media campaign 'Kasvage koos' (Grow Together) was carried out from November to December 2017 calling on fathers to spend more time with their children, including taking part in parental leave. Fathers talking about growing together with their children were featured in television, on the radio, on social media and street advertisements. During the campaign, changes to the parental leave and benefits that coming into force were also discussed, and it was possible for the interested parties to familiarise themselves with the various options for parental leave at the campaign site: [www.papsigakodus.ee](http://www.papsigakodus.ee)

The results of the campaign were extremely positive. 83% of those who had noticed the advertisement were positively influenced by it (changed their attitude or were willing to change their behaviour). 58% of those who had noticed the advertisement would use the paternal leave themselves or would encourage others to use it. In addition, the campaign won several awards at various media and advertising competitions.

## Statistics

Table 11. Inactive persons on maternity leave or child care leave by age group, in thousands, 2014–2017

Age group	2014	2015	2016	2017
15–74	26.0	24.5	29.2	26.3
15–24	3.3	3.7	3.6	3.0
25–49	22.7	20.8	25.5	23.3

Source: Statistics Estonia

Data on the use of the child care leave (section 62 of the Employment Contracts Act) is not collected. The use of the child care leave has been researched within the framework of the survey 'Reconciliation of work and family life' carried out by Statistics Estonia in 2010.

Table 12. Parental benefit recipients by type of parental benefit; characteristics: gender, average compensation amount, 2014–2017

Year	2014	2015	2016	2017
<b>Total of parental benefits granted</b>	14,366	14,505	14,799	14,428
men, %	9.0	8.9	9.3	9.9
women, %	91.0	91.1	90.7	90.1
<b>Parental benefits by type</b>				
Parental benefit in the amount of 100% of income	9,077	9,262	9,815	9,715
men, %	11.4	11.6	11.3	11.9
women, %	88.6	88.4	88.7	88.1
Parental benefit assigned in the maximum amount	652	627	617	637
men, %	26.8	24.1	28.5	30.1
women, %	73.2	75.9	71.5	69.9
Parental benefit in the amount of the minimum monthly salary	2,479	2,693	2,604	2,515
men, %	1.7	1.3	1.7	1.9

women, %	98.3	98.7	98.3	98.1
Parental benefit at the benefit rate	2,158	1,923	1,763	1,561
men, %	1.9	1.4	2.6	2.1
women, %	98.1	98.6	97.4	97.9
<b>Average assigned parental benefit in a year, in EUR</b>	858.30	928.13	1,040.15	1,123.50
men	1,366.12	1,474.31	1,589.09	1,713.74
women	808.12	875.04	983.83	1,058.77

Source: Social Insurance Board

**Table 13. The number of the recipients of child care allowance and the yearly cost of the child care leave, 2014–2017**

	2014	2015	2016	2017
Recipients of child care allowance, at the end of the year	40,113	39,680	39,829	40,834
for a child under the age of 3	20,480	20,077	20,172	20,638
for children aged 3 to 8 in families with a child under the age of 3	8,809	8,345	8,337	8,518
for children aged 3 to 8 in families with 3 and more children	10,824	11,258	11,320	11,678
Cost, thousands (in euro)	14,089.7	13,800.6	13,774.5	13,961.7

Source: Social Insurance Board

**Table 14. The cost of care allowances, 2014–2017**

	2014	2015	2016	2017
Number of instances of care leave	106,419	112,963	122,844	124,538
The number of compensated days	855,143	895,948	961,035	964,351



Compensation paid (in thousands of euros)	16,465	18,367	21,210	22,318
Average compensation per day (in euro)	19.3	20.5	22.1	23.1
Average duration of holiday (in days)	8.0	7.8	7.8	7.7

Source: Health Insurance Fund

Table 15. The use of child leave (section 63 of the ECA), 2014–2017

	2014	2015	2016	2017
The number of persons using child leave, at the end of the year	36,939	41,597	42,920	45,807
Total of used days	128,410	148,050	149,694	160,083
Cost (in euro) <sup>13</sup>	2,129,000	2,698,200	2,975,300	3,485,800

Source: Social Insurance Board

<sup>13</sup> According to section 63 of the ECA, the mother or father has the right to receive child leave in each calendar year: three working days they have one or two children under the age of 14; six working days they have at least three children under the age of 14 or at least one child under the age of three.

### ***Subsection 3 – The illegality of dismissal due to family responsibilities***

#### Legal framework

In 2014, Estonia submitted information to the Committee. Since the submission of information, the legislation has not changed. Pursuant to subsection 92 (2) of the ECA, if an employer terminates an employment contract with an employee raising a child under the age of three, it is considered that the employment contract has been terminated due to their fulfilment of important family responsibilities, unless the employer proves that they have terminated the employment contract on the basis of the law authorised by this Act. Since the law does not differentiate between the termination of employees on the grounds of gender, the above principle applies to both women and men.

The Committee has correctly concluded that, in addition to the compensation for the average salary of up to six months pursuant to subsection 109 (2) of the ECA, an employee illegally dismissed as a result of family responsibilities may also claim non-pecuniary damage (in money) under the Law of Obligations Act, the Gender Equality Act and the Equal Treatment Act.

#### Statistics

Table 16. Requirements for contesting the dismissal in a labour dispute committee (a pregnant woman with the right to pregnancy and maternity leave, a person using the child care leave/parental leave according to section 93 of the ECA)

2014	2015	2016	2017
5	7	5	4

*Source: Labour Inspectorate*

Pursuant to clause 92 (1) 2) of the ECA, the employer cannot terminate an employment contract on the grounds that the employee is performing important family responsibilities. The fulfilment of family responsibilities is a broader concept and does not cover merely the upbringing of children (including children under the age of three). Family responsibilities also include, for example, taking care of parents.

#### Statistics

Table 11. Non-active persons aged 15–74, 2014–2017

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
total of non-active persons (in thousands)	316.9	300.5	290.8	277.3
... incl. taking care of children or other family members (in thousands)	17.4	17.3	15	13.5
... incl. taking care of children or other family members (percentage of non-active persons)	5.5	5.8	5.2	4.9

*Source: Statistics Estonia*