



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

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**FOURTH REPORT
ON THE NON-ACCEPTED PROVISIONS OF THE EUROPEAN
SOCIAL CHARTER**

ESTONIA

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I. SUMMARY

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions - the Committee of Ministers in December 2002 decided that "states having ratified the revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned" (Decision of the Committee of Ministers of 11 December 2002).

Following this decision, the European Committee of Social Rights examines - in a meeting or by written procedure - the actual legal situation and the situation in practice in the countries concerned from the point of view of the degree of conformity of the situation with non-accepted provisions. This review is done for the first time five years after the ratification of the revised European Social Charter, and every five years thereafter, to assess the situation on an ongoing basis and to encourage States to accept new provisions. Indeed, experience has shown that States tend to overlook that the selective acceptance of the provisions of the Charter should be only a temporary phenomenon and not a rule.

Estonia ratified the Charter on 11 September 2000, accepting 87 of its 98 paragraphs. The following provisions are not yet accepted: Articles 2§4, 3§4, 4§1, 7§5, 7§6, 10§5, 18§3, 23 and 31§§1-3.

The procedure provided for by Article 22 of the 1961 Charter was applied for the first and second time in the context of a meeting between members of the European Committee of Social Rights and representatives of various Estonian authorities in Riga on 5 April 2005 and 20 September 2010.

With a view to carrying out the procedure for the third time in 2015 and for the fourth time in 2020, the Estonian authorities were invited to provide written information on the non-accepted provisions of the Charter.

After examining the written information provided by the Government of Estonia in 2020, the European Committee of Social Rights considered that there were no major obstacles to the acceptance by Estonia of Articles 2§4, 3§4, 7§6, 10§5, 18§3, 23, 31§2 and 31§3 of the Charter.

The situation did not appear to be fully in conformity with the following provisions of the Charter: Articles 4§1, 7§5 and 31§1. The Committee encourages the Estonian authorities to remove obstacles to acceptance of these provisions.

The Committee invites Estonia to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The Committee also encourages Estonia to consider ratifying the Additional Protocol providing for a system of collective complaints. In this respect, the Committee refers to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter (Appendix 2).

The European Committee of Social Rights remains at the disposal of the authorities of Estonia for continued dialogue on the non-accepted provisions.

The next examination of the provisions not accepted by Estonia will take place in 2025.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 2 § 4 – The right to just conditions of work: Reduced working hours or additional holidays in dangerous or unhealthy occupations

Situation in Estonia

During the reporting period (2015-2019) some changes were made in the occupational health and safety regulation. In particular, on 1 January 2019 amendments to the Occupational Health and Safety Act came into force to improve the protection of employees and to decrease the administrative burden of employers when it comes complying with requirements of occupational health and safety.

The most important changes are the following:

Modification of the procedure for organising medical examination for the sake of legal clarity, without making any significant changes in the principles of medical examination. With this amendment, the medical examination is more closely linked to the results of the working environment risk assessment.

Changes regarding the organisation of providing instruction and training to employees to increase flexibility and legal clarity. Employers are given more rights concerning the organisation of instruction and training for employees. For example, the employer can decide how and by whom instruction or training is provided.

Organisation of first aid more flexible: employers have more options in organising first aid in the enterprise and designating first aid providers according to the needs of the enterprise.

Changes to the procedure for the training of first aid providers, work environment representatives and work environment council members to increase the quality of training. Training and retraining is provided now by a person in charge of a continuing education institution in accordance with the requirements of the Adult Education Act.

The procedure for investigating accidents at work has been simplified in cases where the employee is not temporarily unable to work. In other cases the occupational accident is investigated by the Prosecutor's Office.

The fine rates have been increased to encourage employers to be more diligent in meeting occupational health and safety requirements.

The employer and employee have the right (not the obligation), under certain conditions, to agree on the application of a contractual sanction in the event that one of the parties has breached his or her obligations to comply with occupational health and safety requirements.

The term "psychological risks" is replaced by the term "psychosocial risks"; the definition of this term is specified in more detail, as are the measures applied to prevent health damage caused by such risks.

Regulations issued under the Occupational Health and Safety Act are now in line with the relevant EU Directives.

The measures taken do not include the reduction of the working day or the granting of additional paid holidays. The Estonian authorities consider that additional leave or reduction of working time should not be regulated by law but can be part of an agreement between employers and employees.

Numerous measures have been taken by the authorities, in particular by the Labour Inspectorate, to ensure compliance with the relevant legislation (such as State supervision, awareness raising

campaigns, training sessions, conferences, information mornings, newsletter, The Working Life portal). The main actions in the field of occupational health and safety are described in the Welfare Development Plan 2016 - 2023.

In 2019, within the framework of national monitoring there were 57 infringements of the law, the total amount of fines was 18,250 euros. Compared to the number of violations and fines in the previous year, these figures have decreased mainly with regard to legal persons.

Opinion of the Committee

The Committee recalls that the 1961 Charter had been drafted at a time when working hours were longer and the main aim of occupational health and safety policies was not to prevent and eliminate risks but to compensate for them. Since then, daily and weekly working hours have generally decreased and, above all, prevention has become the priority. The 1996 revised Charter takes account of this development by dividing Article 2§4 into two parts, the first requiring States Parties to take the necessary measures to eliminate risks and the second requiring them to provide compensation for residual risks. This change ensures consistency with Articles 3 (right to safe and healthy working conditions) and 11 (right to protection of health)¹.

This provision focuses in its first part on the prevention and elimination of risks, which seems to be reflected in Estonian legislation and practice. The assessment of national situations under Article 2§4 takes into account the information provided and the conclusion reached in respect of Article 3§2². It should be noted that Estonia has accepted Articles 3§§1-3 and 11§§1-3 of the Charter.

The second part of Article 2§4 requires States Parties to ensure some form of compensation for workers exposed to risks that cannot be or have not yet been eliminated or sufficiently reduced either in spite of the effective application of the preventive measures or because they have not yet been applied. Although Article 2§4 mentions two forms of compensation: reduced working hours and additional paid holidays, given the emphasis in this provision on health and safety objectives, other approaches to reducing exposure to risks may nevertheless ensure conformity with the Charter³. They need to be assessed on a case by case basis.

The Committee therefore invites the Estonian authorities to consider the possibility of accepting Article 2§4 of the Charter.

Article 3 § 4 – The right to safe and healthy working conditions: Occupational health services

Situation in Estonia

According to the Occupational Health and Safety Act (§ 13), an employer has an obligation to organise medical examinations for an employee whose health may be affected, based on the assessment of risks in the working environment. The medical examination of an employee is carried out by an occupational physician, with the participation of other specialists, if necessary. The costs of medical examinations are covered by the employer.

During the reporting period (2015-2019), amendments were made to the procedure for organising the medical examination. The changes were introduced mainly for the sake of legal clarity, without making significant changes to the principles of the medical examination: the medical examination

¹ *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, decision on the merits of 6 December 2006, § 232-236

² Conclusions 2005, Statement of Interpretation on Article 2§4

³ *Ibidem*

was linked more closely to the results of the risk assessment of the working environment. In addition to the medical examination, which is compulsory, the employer has the right to use other occupational health services (called non-medical health services) provided by occupational health specialists (occupational physician, occupational health nurse, occupational hygienist, occupational psychologist or ergonomist).

The Estonian authorities point out that there are still a number of problems in the provision of occupational health services in Estonia that make it impossible to accept the provision, such as the lack of occupational health specialists and the uneven quality of occupational health services.

In 2019-2020, an analysis on how to improve the quality and sustainability of occupational health services was carried out by the Ministry of Social Affairs in order to ensure that occupational health services are better and more effective in preventing work-related health problems.

Opinion of the Committee

Article 3§4 requires to promote, in consultation with employers 'and workers 'organisations, the progressive development of occupational health services that are accessible to all workers, in all branches of economic activity and for all enterprises. It belongs to the provisions which include complex and onerous obligations to be implemented progressively. States Parties therefore "must take measures that allow it to achieve [the set objectives] within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources"⁴⁵.

In the light of the information provided on the current legal situation and practice in Estonia, the Committee reiterates its opinion that there are no major obstacles for Estonia to accept Art. 3§4 of the Charter and, consequently, it invites the Estonian authorities to consider the possibility of accepting this provision.

Article 4 § 1 – The right to a fair remuneration: Decent remuneration

Situation in Estonia

The situation regarding the minimum wage has not changed since the last report. Although Article 29 of the Employment Contract Act states that the government of the Republic sets the national minimum wage, in practice the minimum wage is agreed between the social partners - the Estonian Trade Union Confederation and the Estonian Employers' Confederation. The social partners conclude an extended collective agreement. The government uses this as a basis and sets a national minimum wage for all employees, as agreed by the social partners. On 25 November 2019, the social partners agreed that in 2021, the minimum wage will be 40% of the national average wage.

The Estonian authorities therefore do not see the possibility of accepting this provision.

Opinion of the Committee

The Committee recalls that Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers. To be considered fair within the meaning of Article 4§1, the minimum wage paid in the labour market must not fall below 60% of the net average national wage. The assessment is based on net amounts, i.e. after deduction of taxes and social security contributions.

⁴ International Association Autism-Europe (IAAE) v. France, Complaint No. 13/2002, Decision on the merits of 4 November 2003, § 53

⁵ Conclusions 2009, Albania

In the light of the information provided on the current situation in Estonia, the Committee reiterates its opinion that the conditions do not seem to be met to satisfy the requirements of Art. 4§1 of the Charter. It therefore encourages the Estonian authorities to take all measures to remedy this situation.

Article 7 § 5 – The right of children and young persons to protection: Fair pay

Situation in Estonia

The situation regarding the legal framework for youth wages has not changed since the last report. Estonian legislation does not provide for separate regulations for the remuneration of young workers. According to clause 2 of subsection 2 of section 2 of the Equal Treatment Act, wage discrimination of persons on the basis of age is prohibited.

The average gross monthly wage in 2017 of employed young people under 25 was 787 euros, which was 61% of the average gross wage of 25-49 year olds. The average gross monthly salary in 2018 of young workers aged 15-18 who were working full-time and studying at the same time was 678 euros, which was 52% of the average gross wage of people aged 19 and over.

As the Committee reiterated in its previous report that the situation in Estonia does not seem to be compatible with Article 4§1, the Estonian authorities are of the opinion that it would not be reasonable to introduce possibilities to differentiate the wages of young workers from the starting wages of adults. Therefore, the ratification of Article 7§5 of the Charter is not reasonable at this stage.

Opinion of the Committee

The Committee recalls that in application of Article 7§5, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances. This right may result from statutory law, collective agreements or other means. The “fair” or “appropriate” character of the wage is assessed by comparing young workers’ remuneration with the starting wage or minimum wage paid to adults (aged eighteen or above)⁶.

The young worker’s wage may be less than the adult starting wage, but any difference must be reasonable and the gap must close quickly⁷. For fifteen/sixteen year-olds, a wage of 30% lower than the adult starting wage is acceptable. For sixteen/eighteen year-olds, the difference may not exceed 20%⁸.

The Committee stressed that the adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter. If the reference wage is too low, even a young worker’s wage which respects these percentage differentials is not considered fair⁹.

Since the level of the minimum wage in Estonia seems inadequate, as indicated under Art. 4§1 above, it seems that the level of wages for young workers cannot be considered as fair. The Committee invites the Estonian authorities to make efforts and adopt an appropriate policy in order to allow the acceptance of Article 7§5 of the Charter.

Article 7 § 6 – The right of children and young persons to protection: Inclusion of time spent on vocational training in the normal working time

⁶ Conclusions XI-1 (1991), United-Kingdom

⁷ Conclusions II (1971), Statement of Interpretation on Article 7§5

⁸ Conclusions 2006, Albania

⁹ Conclusions XII-2 (1992), Malta

Situation in Estonia

The amendments to the Employment Contract Act regarding working time of the minors came into force on 8 May 2017. They specified the rules on working time during the school year.

According to the Adult Education Act, young people who work have access to vocational training through additional leave entitlements.

The legal framework for vocational training of young people during normal working hours has not been changed since the last report.

The Estonian authorities consider that adding the obligation to include an employee's vocational training in working time (and thus to pay wages for this time), although the need for training has not increased due to the employer's need, can lead to a situation where the young worker becomes unattractive to the employer because of the additional costs involved. This in turn has a negative impact on youth employment, which has been problematic in Estonia. Therefore, the acceptance of Article 7§6 of the Charter is not reasonable at this stage.

Opinion of the Committee

The Committee recalls that according to Article 7§6, time spent on vocational training by young people during normal working hours must be treated as part of the working day¹⁰. Such training must, in principle, be done with the employer's consent - but not necessarily financed by the latter and be related to the young person's work.

Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked¹¹.

Having noted, that the legal framework for vocational training of young people during normal working hours in Estonia remains unchanged since the last report, the Committee reiterates its opinion that there are no major obstacles for Estonia to accept Article 7§6 of the Charter and, consequently, it invites the Estonian authorities to consider the possibility of accepting this provision.

Article 10 § 5 – The right to vocational training: Full use of facilities available

Situation in Estonia

The legal framework for vocational training has not changed since the last report, except for one modification: financial allocations for students are, among other legislation, regulated by the Vocational Educational Institutions Act (adopted in 2013, amended in 2019).

Student has the right to apply for a basic allowance and to obtain a study loan under the conditions and in accordance with the procedure provided for in the Study Allowances and the Study Loans Act, as well as to obtain support to cover school lunch expenses under the conditions and in accordance with the procedure provided for in the Vocational Educational Institutions Act.

Continuing vocational training takes place only at levels 4 and 5 of vocational training.

The 2019 State budget included a total of EUR 9.8 million towards education allowances, travel fare discounts and school meal allowances for students in vocational education.

¹⁰ Conclusions XV-2 (2001), Netherlands

¹¹ Conclusions V (1977), Statement of Interpretation on Article 7§6

The Estonian authorities share the Committee's view expressed in its last report that there are no major obstacles to the acceptance of Article 10§5. However, they stress that the possible acceptance of this provision by Estonia needs to be further analysed.

Opinion of the Committee

Article 10§5 provides for complementary measures which are fundamental to making access to vocational training effective in practice. The Committee quoted these measures in its previous report.

Having taken note of the information provided by the authorities of Estonia, the Committee encourages them to complete the needed analyses without delay. It reiterates its opinion that there are no major obstacles for Estonia to accept Article 10§5 of the Charter and, consequently, it invites the Estonian authorities to consider the possibility of accepting this provision.

Article 18 § 3 – Right to engage in a gainful occupation in the territory of other States Parties: Liberalising regulations

Situation in Estonia

The legal basis for a foreigner to enter, stay, reside and work in Estonia are stipulated in the Aliens Act. For the citizens of the European Economic Area and citizens of the Swiss Confederation and the family members thereof, the Citizen of European Union Act applies.

All foreigners, who are residing in Estonia on the basis of a residence permit, have a right to work in Estonia, unless otherwise stipulated by law. Foreigners, who have a visa or a residence permit, may invite and arrive to Estonia together with their family members. Family members, who have a residence permit, may work in Estonia without any additional requirements. A third-country national can work in Estonia in three different ways, depending on the length of stay in Estonia or the nature of the job: on the basis of a residence permit, registration of short-term employment or when the right to work is derived from the law.

A number of measures have been taken to liberalise the regulations governing the employment of foreign workers and to facilitate their integration. In 2015, an introductory welcoming programme was launched in order to facilitate integration and support the adaptation of newly arrived foreigners. In 2016, several amendments to the Aliens Act entered into force to simplify the entry requirements for categories of foreigners who would contribute to the Estonian economy and society. The procedure for applying to the Estonian Unemployment Insurance Fund (EUIF) has been simplified. The possibility of temporary work has been opened and foreigners are allowed to work simultaneously with several employers; EUIF authorisation and salary requirements are no longer required for the second job. In 2017 and 2018, several amendments were introduced with the intention to attract foreign skilled workers, start-ups and investors and simplify the conditions of working in Estonia.

The Estonian authorities consider that the legal framework and practice in Estonia is in conformity with the requirements of Article 18 § 3 and confirm that Estonian legislation is constantly evolving to simplify procedures and facilitate integration. However, in order to keep the flexibility to develop the legislation according to the actual needs of the Estonian economy in cooperation with the social partners and relevant professional associations, Estonia prefers not to accept Article 18 § 3.

Opinion of the Committee

The Committee notes that regulations governing the employment of foreigners in Estonia have been liberalised considerably since 2008 and that the relevant legislation is constantly evolving to simplify procedures and facilitate integration. It also notes the reluctance of the Estonian authorities to accept this provision even though, according to the authorities, the conditions are met to do so.

Having taken note of the information provided by the authorities of Estonia, the Committee reiterates its opinion that there are no major obstacles for Estonia to accept Article 18§3 of the Charter and, consequently, it invites the Estonian authorities to consider the possibility of accepting this provision without delay.

As under Article 18§3 states are required to guarantee rights in the event of loss of employment, the Committee requests further information on the measures taken to ensure these rights.

Article 23 – The right of elderly persons to social protection

Situation in Estonia

The Equal Treatment Act ensures that people are protected against discrimination on the grounds of nationality (ethnic origin), race, colour, religion or other belief, age, disability or sexual orientation. The Ministry of Social Affairs is currently preparing amendments to the Equal Treatment Act to improve protection against discrimination on grounds of religion or belief, age, disability and sexual orientation in education, access to goods and services and social protection.

In 2018, the Parliament adopted amendments to the State Pension Insurance Act and the Funded Pensions Act to formalise the pension reform agreed with the social partners and other stakeholders. The aim of the pension reform was to avoid a reduction in pensions and to ensure the financial sustainability of the country.

Several steps have been taken to advance the rights of older people. The most relevant is the Welfare Development Plan 2016-2023, into which the activities of the Active Ageing Development Plan 2013-2020 have been integrated. The Welfare Development Plan focuses on the strategic objectives of labour market, social protection, gender equality, and equal treatment policies for 2016-2023. The Development Plan provides a thorough overview of the main objectives, lines of action and issues related to these policies.

The Ministry of Social Affairs has launched several awareness-raising activities to make the public conscious of the problems of the elderly and to promote their rights.

Since the beginning of 2020, the Elderly Advocacy Capacity Development Program has been implemented to building the leadership and policy-making competencies of older advocacy organisations, with a view to creating a strong network of organisations that would represent the interests of current and future older people and take an active part in policy-making.

On the opposite, Estonia does not have a unitary long-term care system capable of integrating measures from different levels of governance (state, local) and service sectors (health care, social care, labour market) for the benefit of people with unmet needs throughout their lives.

The key problems as of 2020 are the following:

- Disproportionate burden on caregivers (informal caregivers) ;
- Inefficiency of funding and service delivery in the long-term care system ;
- Fragmentation of the health and social care sectors in terms of funding, organisation, communication and policy making;
- Unequal geographical provision of social care services;
- Low share of GDP devoted to social protection measures in Estonia (16%) compared to the EU average (28%).

Some initiatives have been taken to improve in particular the quality of social services as well as the personal rights and quality of life of people with dementia and their informal caregivers.

The Estonian authorities consider that it is currently not possible for Estonia to accept Article 23 because older people do not always have the possibility to receive care in a facility close to their

home and the prices of care services are not always affordable. It is also for this reason that most older people staying in care homes cannot afford to have a separate room for themselves.

Opinion of the Committee

The Committee recalls that one of the primary objectives of Article 23 is to enable older persons to remain full members of society. The expression “full members” means that older persons must suffer no ostracism on account of their age. The right to take part in society’s various fields of activity should be granted to everyone active or retired, living in an institution or not.

Article 23 overlaps with other provisions of the Charter which protect older persons as members of the general population, such as Article 11 (Right to protection of health), Article 12 (Right to social security), Article 13 (Right to social and medical assistance) and Article 30 (Right to protection against poverty and social exclusion). Article 23 requires States Parties to make focused and planned provision in accordance with the specific needs of older persons.

Estonia has taken a number of measures to meet the requirements of Article 23. It seems that the problem that persists is a low rate of purchasing power of the older people. However, the reform of the pension system gives hope that this situation will gradually change. The Committee therefore reiterates its opinion that there are no major obstacles for Estonia to accept Article 23 of the Charter in the near future. It invites the Estonian authorities to consider the possibility of accepting this provision.

Article 31§1 – The right to housing: Adequate housing

Situation in Estonia

The legal framework for access to housing has not changed in Estonia since the 2010 report.

A number of measures have been taken to ensure the right to housing, but the term 'adequate' has not been defined in Estonian legislation. Therefore, the Estonian authorities consider that it would not be possible for Estonia to accept this article at this time.

The obligation to promote access to adequate housing lies with the local municipalities and the state only intervenes in the market if it is not functioning properly. Therefore, the State does not have a national strategy to promote access to housing and the definition of adequate housing in legislation is not foreseen in the near future.

The state offers many support measures to help local municipalities meet the needs of the population in this area, but they do not guarantee conformity with Article 31 § 1 of the Charter.

Opinion of the Committee

The Committee notes all measures taken by the Estonian authorities to ensure access to housing, such as the Estonian National Development Plan of the Energy Sector Until 2030+ and the Welfare Development Plan for 2016-2023.

It recalls that the notion of adequate housing must be defined in law. It therefore considers that this gap in the legislation is an obstacle to the acceptance of Article 31§1 of the Charter. In view of the development of housing policy and practice in Estonia, the Committee strongly encourages the Estonian authorities to overcome this shortcoming in the legislation as soon as possible and to accept this provision.

Article 31§2 – The right to housing: Reduction of homelessness

Situation in Estonia

There is no legally binding data collection on homelessness in Estonia and there is no official definition of homelessness in Estonian legislation. The definition used for the collection of statistics has not changed since the last report: a homeless person is a person who has no legal

connection (ownership, tenancy) to a living space described as a building, room or part of it. In terms of data collection, the Estonian authorities operate with the number of users of night shelters or other institutions.

There is no national strategy in the field of homelessness and it is not expected that one will be established in the near future.

Under the Social Welfare Act (from 2016), the State delegates to local municipalities the task of assisting people in need. People who have faced socially helpless situation due to loss or lack of livelihood will receive inevitable social assistance (food, clothing and, if necessary, shelter). All other social benefits (emergency benefits, medication benefits, etc.) and services (self-help, debt counselling, day centres with laundry or self-cleaning facilities, etc.) offered by local municipalities are also available to the homeless.

The state allocates resources to local municipalities to pay subsistence allowances to persons in need. The subsistence allowance includes the subsistence level and accommodation costs, which can also be provided separately. All persons whose income, after payment of housing costs, is below the subsistence level are entitled to the subsistence allowance. There is no limit to the number of times the benefit can be used and the amount of the allowance varies each month depending on the composition of the family and the housing costs. In 2019, the subsistence level for the first or only family member was 150 euros, 120 euros for each following member and 180 euros for a minor. Local municipalities, which grant and pay the subsistence allowance, must ensure that the limits set for housing costs are reasonable and guarantee a decent living for individuals and their family members. The average subsistence benefit per application in 2019 was 243 euros and it has been rising annually.

At the end of 2019, 18 institutions were providing shelter service with 627 beds to 1988 people during the year.

The rules and procedure for evictions remain unchanged. Eviction is governed by Article 180 of the Code of Enforcement Procedure (CEP). The Estonian authorities consider that the existing legislation provides sufficient protection of the right to housing and that the interests of persons in the event of unlawful eviction are sufficiently protected.

While Estonia needs more affordable and quality housing, it also needs more targeted services for people at risk of homelessness and steps are being taken in this direction. However, the Estonian authorities do not currently consider that Estonia fully complies with Article 31 § 2 of the Charter, and as there is no firm strategy in this area at present, Estonia is not ready to accept Article 31 § 2 of the Charter.

Opinion of the Committee

The Committee recalls that States Parties must take action to prevent categories of vulnerable people from becoming homeless. In addition to a housing policy for all disadvantaged groups of people to ensure access to social housing (cf. Article 31§3)^{12 13}. Homeless persons must be offered shelter as an emergency solution.

The temporary supply of shelter, however adequate, cannot be considered satisfactory; individuals who are homeless should be provided with adequate housing within a reasonable

¹² Conclusions 2005, Lithuania

¹³ Conference of European Churches (CEC) v. the Netherlands Complaint No. 90/2013, decision on the merits of 1 July 2014, §136

period. In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness^{14 15}.

In the light of the information provided, the Committee considers that there are no major obstacles for Estonia to accept Article 31§2 of the Charter.

Article 31§3 – The right to housing: Affordable housing

Situation in Estonia

The State has implemented many support measures to make housing affordable for people with insufficient income.

The Social Welfare Act states that local municipalities are responsible for ensuring the provision of housing for people who, due to their socio-economic situation, are not able to have housing that meets their needs. The local municipality can offer people a place in a subsidised municipal or social house or dwelling, or help them to find suitable living space on the open market by assisting them to cover the primary costs. Rent prices in municipal and social houses are significantly lower than rent prices on the open market.

Also, if a local municipality offers people in need a provision of dwelling, it is obliged by the Social Welfare Act (§16) to assess whether and how much it can charge the person in need for the service offered and to ensure that the price will not prevent them from receiving the necessary service.

In 2018, there were about 53 000 people who had difficulties with meeting housing costs.

Statistics Estonia also collects and analyses information on households that cannot pay their rent or utility bills on time and cannot keep their homes warm enough. Statistics show that keeping a home warm enough is not a common problem but paying bills on time was a challenge for 8% (105,496 people) of the population in 2018.

People in need can apply for the subsistence benefit (Social Welfare Act § 131-135, Article 31 § 2), which is a general minimum income system in Estonia guaranteeing a subsistence level and also covering housing costs. In 2018, in total 20 931 people received the benefit.

The municipalities have 7575 social or municipal residential premises (flats or separate rooms) at the end of 2018 and in addition about 900 beds in social units. 90.4% of these residential premises were occupied. At the end of 2018, 5,799 people were still waiting in the housing queue.

The rate of severe housing deprivation in Estonia is lower than the EU average, but the problem exists and there is a continuing need for new and refurbished social, municipal and open market housing of adequate quality and at reasonable and affordable prices.

To improve the situation, the state offers subsidies to local municipalities for the construction of new buildings with municipal rental flats and for the renovation of existing buildings.

In conclusion, the Estonian authorities consider that it is not possible to state that the current situation fully complies with the requirements of Article 31 § 3 of the Charter and, therefore, they

¹⁴ Conclusions 2003, Italy

¹⁵ Conference of European Churches (CEC) v. the Netherlands Complaint No. 90/2013, decision on the merits of 1 July 2014, §140

are not ready to accept this provision. However, the State is making continuous efforts by developing targeted measures towards individual municipalities (e.g. rural areas) to tackle the problem.

Opinion of the Committee

Article 31§3 guarantees an adequate supply of affordable housing for persons with limited resources.

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located¹⁶.

Taking into account the information provided, the Committee considers that there are no major obstacles for Estonia to accept Article 31§3 of the Charter.

¹⁶ Conclusions 2003, Sweden

APPENDIX I

— Estonia and the European Social Charter —

Signatures, ratifications and accepted provisions

Estonia ratified the Revised European Social Charter on 11/09/2000, accepting 79 of the Revised Charter's 98 paragraphs.

On 27 June 2012, Estonia accepted 8 additional provisions of the Charter, thus accepting to be bound by 87 of the Revised Charter's 98 paragraphs.

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

The Charter in domestic law

Under chapter 3 of the Constitution: "The powers of state shall be exercised solely pursuant to the Constitution and laws which are in conformity therewith. Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system."

Table of accepted provisions

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

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Estonia](#) in 2005, 2010 and 2015. The Committee is of the opinion that there are no legal obstacles for acceptance by Estonia of the following provisions: Articles 2§4, 3§4, 7§6, 10§5, 18§3, 23 and 31§2.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

APPENDIX II

Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter

(Adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 ("the Charter");

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasizing that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognizes the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;

4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;
6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;
7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.